

**PUBLIC WORKS**

**AND**

**PUBLIC TRANSPORTATION COMMITTEE**

**of the**

**SUFFOLK COUNTY LEGISLATURE**

A regular meeting of the Public Works and Public Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Tuesday, August 1, 2006.

**MEMBERS PRESENT:**

Legislator Jay Schneiderman • Chairman

Legislator Wayne Horsley • Vice•Chairman

Legislator Kate Browning

Legislator Edward Romaine

Legislator Ricardo Montano

Legislator John Kennedy

Legislator Louis D'Amaro

**ALSO IN ATTENDANCE:**

George Nolan• Counsel to the Legislature

Kevin Duffy • Budget Review Office

Charles Bartha • Commissioner • DPW

Richard LaValle • Chief Deputy Commissioner • DPW

Leslie Mitchel • Deputy Commissioner • DPW

Renee Ortiz • Chief Deputy Clerk • Legislature

Ben Zwirn • County Exec's Office

Christine Malafi • County Attorney

Joe Schroeder • Budget Review Office

All Other Interested Parties

**MINUTES TAKEN BY:**

Donna Catalano • Court Stenographer

**(\* THE MEETING WAS CALLED TO ORDER AT 1:56 P.M. \*)**

**CHAIRMAN SCHNEIDERMAN:**

Good afternoon, everyone. I'd like to call the meeting to order this first day of August, 2006. All rise and join us for the Pledge of Allegiance led by Legislator Steve Stern.

## **SALUTATION**

### **CHAIRMAN SCHNEIDERMAN:**

All right. Why don't •• why don't we start •• I guess we could start with public portion, though, I have quite a number of cards. They are all on the same subject. I think we know most of the positions, and if you could either •• you know, once the first speaker speaks, if you just simply are coming up to say the exact same thing, if you just want to say I support the earlier speaker, that's fine so we can move through this quicker. If you want to just not speak at all, you're welcome, of course, to do that. If you have a completely different opinion, yes, of course, we want to hear that. Our normal time limitation would be three minutes, but I know some Legislators have other commitments and need to leave this meeting. We're getting a little bit of a late start. So I just ask for brevity here so we can move through this as quickly as possible.

Since all of this has to do with Bill 1892, I will, after the speakers are done, make a motion to take 1892 out of order so that everyone can •• or many of you can go home including the County Attorney, who may not be going home but may be going to other business, who I know is here for this reason, several others as well. So we'll start with Fred {Brendle}. Again, it's on 1892. Fred, if you can step forward to the podium, you have three minutes.

### **MR. { BRENDLE } :**

Thank you. Good afternoon. I want to let you know that we weren't notified on this traffic light at all. And I live in the

community across from where this big box is going in. And it's going to have a negative impact on an overwhelmed Commack Road already, and it's going to have a negative impact in my community and the Commack community and Dix Hills community around there. I'll be brief. I just hope that you vote to stop this traffic light at this point in time until a proper study is done so we can all as a community and as a Legislature agree on something that will work for everybody. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you.

**APPLAUSE**

**CHAIRMAN SCHNEIDERMAN:**

I'm going to ask that we don't have applause. Just let the speakers speak, so we don't get into that kind of booing and applauding match here. Judy {Byrnes}.

**MS. {BYRNES} :**

Good afternoon. I also live in the same community across the street from the big box developers. There's a proposed traffic light at Northgate and Commack Road. Erection of this structure began and stopped. Why? Through the diligent research and persistence of concerned community members, it was discovered that not only was the light built over a federal gas line, but that another light already existing at Henry Street and Commack Road was erected without proper knowledge of the

utility, KeySpan.

Both lights were planned to be built without proper gas line clearances, and the Department of Public Works had no knowledge of these irregularities until the police and community members contacted them. It looks like construction has begun again. How confident am I in our local government? Surely they have not looked out for our best interests. In fact, they minimized the concerns raised by our community only guaranteeing the sun will be out tomorrow without any other safety reassurances.

I thank my neighbors and my friends for attempting to halt the very dangerous conditions planned for our community. The Department of Public Works states the light will be for the safety of others, but what about the safety of our community members? Meeting after meeting, discussion after discussion, no one seems to take ownership for the monumental adverse impact this will have on our lives. Everyone just seems to blame Smithtown.

I'd like to read a short excerpt from Steve Levy our County Executive's letter. Basically they state they deny •• they disagreed with this proposal of the big box development, yet the Town of Smithtown ignored the County's warnings and issued an unanimous approval to proceed with the project. The fact is the County has been the most aggressive governmental entity that is seeking to address concerns raised by local residents even though the County has no authority in this area.

Many children live in our community. Traffic on Commack Road has already become so difficult that after returning home from

my full time job, gridlock often prevents me from getting into my own development. Noise and air pollution are already making children and adults in high traffic areas ill. The long term affects on our children remain unknown. We live in turbulent times and live in an area targeted as high probability for a serious hurricane. We have all been instructed to prepare families for emergencies, meeting places, supplies. How would we exit our homes in the event of an evacuation? How many will be killed or injured in the event an accident triggers a gas explosion?

I'm disappointed and appalled that in our County a small enclave called Smithtown has the single handed ability to change the face and landscape of our community without answering to a higher authority. I question the necessity for a County Government paid for by our taxes that cannot rule on such a serious matter. You are the Legislators, the lawmakers. Surely you see that something is not right here. You have the ability to make a change, to preserve our wildlife, our clean air and our safety. Would you want to be living on top of a land mine? That's where I live.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Again, if you can try to refrain from applause until we get to the bill. Then after we vote, if you are happy of dissatisfied, I think it would be appropriate at that point. Also, I want to remind you, again, if it has been said already, you don't need to repeat it. You can just simply agree with the previous speaker. If you have new information, obviously, we'd like to hear it. David Pincus.

**MR. PINCUS:**



David Pincus, 61 Stonehurst Lane, Dix Hills, New York. I also have a law practice in Melville. On the 19th, I was taking a ride in my neighborhood and there was a KeySpan truck there. And I went over to that KeySpan truck and spoke to some representatives, you know, the workers assigned to that truck who told me that digging can't take place over gas lines unless a design plan is prepared and filed with KeySpan and that KeySpan has to approve and authorize that plan.

The workers informed me that to their knowledge no such design plan had ever been filed with KeySpan, it simply didn't exist. Despite that, digging had taken place near the gasoline. I do echo my neighbor's comments to the extent, why is the County Executive pushing this work to be done. The cry is that the horse is out of the barn, but I tell you this County Executive is taking an electrical prod and sticking it in the rump of this horse so that it runs from the corral as fast as possible.

There's a difference between can't and won't. The Highway Law 136 clearly gives the County the power to regulate traffic over its roads. I'm a personal injury attorney, so notice is very important in my profession. And we're always talking about knew, should have known, could have known. And clearly when the Planning Department said that this project was no good, Suffolk County was on notice that there was a problem. By the same token, the developer was on notice there was a problem. So where are these highway plans that this light is based on? Why are you people •• not you people, I'm sorry. I would like to enlist you people as friends. I'd really like you to listen.

We are looking for justice, okay. And there's a joke. Justice, just us. No, that's not what I'm talking about. I'm talking about playing by the rules. I'm talking about •• this is not NIMBYism. Do you know what NIMBYism is? It's when a small group wants



to kill a project that has overall merit. The County determined that this project does not have merit. So what's happening is there's a game flowing to the Town of Smithtown to the detriment of all the citizens in this County. And that's what I really want to bring to the attention of my fellow residents of this County. This could be coming to a town near you. Beware.

**CHAIRMAN SCHNEIDERMAN:**

Thank you.

**MR. PINCUS:**

I'm sorry. One more thing. I've done a lot of research on 136, and I've got to tell you something. Generally speaking, the courts are pretty deferential to what the County does in terms of regulating traffic over its roads. I have a bunch of cases that really have supported the municipality in just about every case. There would have been nothing arbitrary and capricious about the County saying no to the kind of access that the developer is looking for on Crooked Hill Road and Commack Road. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Susan Nudelman.

**MS. S. NUDELMAN:**

Good afternoon. My name is Susan Nudelman, 92 Stonehurst Lane, Dix Hills, New York. I'm an attorney. Why are we here

today? Why did Suffolk County Legislator Steve Stern and his assistant Deborah Harris have to go to extraordinary length to introduce this extraordinary resolution? It is unprecedented that the Legislature has to be asked to intervene to safeguard the private property rights of ordinary citizens and to protect a community from the dangers posed by a Suffolk County Department of Public Works road reconfiguration plan that will reroute heavy truck and car traffic on to Commack Road adjacent to two high pressure gas lines, one distribution line and that will require the installation of heavy concrete and steel light supports in close proximity to the gas lines, an installation that KeySpan's own public works engineers, { Elden Smith and John Assaro } told us should not be done under any circumstances and an installation that the Suffolk County DPW did to accommodate the same developer at Henry street.

There the traffic light support is less than nine and a half inches from the 20 inch, 350 pound high pressure natural gas transmission line and violates federal minimum safety regulations and the Federal Pipeline Safety Act. Steve Stern's resolution is an extraordinary but necessary reaction to a wayward out of control Suffolk County Executive Branch and its rouge DPW who believe they are above constitutional laws such as the Fifth Amendment, which prohibits the taking of private property without due process and just compensation, above the Federal Pipeline Safety Act and federal regulations in their New York State counterparts, which prohibit acts and installations that endanger gas lines, above New York SEQRA Laws, which require extensive public notice hearings and review type one actions, such as the Commack BBC and the Commack•Crooked Hill Road reconfiguration, which was buried with the larger project and never given any review for the severe environmental impacts it poses, such as traffic congestion, noise pollution, air pollutions, and danger to the Commack Road gas lines.

They totally, totally think that they're above General Municipal

Law 239•F, which requires notice and public hearings for County Road changes and building permits. A law they require developers to comply with, but we were told doesn't apply because there's no official County map, above Highway Law 136, which Mr. Pincus mentioned. Did the Suffolk County DPW study the traffic pattern changes to the new Imperial Gardens where there are no sidewalks and where children wait for buses in the streets before issuing the work permit for the Commack Road •Crooked Hill Road reconstruction? Did it consider evacuation plans if there's a pipeline explosions as my prior neighbor asked?

Today the cover of Newsday says, "They Were Warned." Today, Suffolk County is warned. Suffolk County has placed a roadside bomb at Henry Street and will be planting another roadside bomb by Northgate by allowing and maintaining traffic light installations in close proximity to high pressure gas lines that KeySpan's own filed engineers said were dangerous and prohibited and that violate industry safety standards? You just have to go on the web, check columbia gas transmission, check {quest star} gas transmission. They don't even allow shrubs over the gas lines, no less concrete footings of major traffic pole supports. The Suffolk County Executive and Suffolk County DPW have created ••

**CHAIRMAN SCHNEIDERMAN:**

Ms. Nudelman, can I interrupt ••

**MS. S. NUDELMAN:**

•• and are continuing to create a public safety emergency.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Michele Nudelman.

**MS. M. NUDELMAN:**

Hi. My name is Michele Nudelman. I also live at 92 Stonehurst. I'm her daughter. Today I went to Riverhead to check what DPW is now claiming they have the right•of•way based on maps from 1967. I actually went to Riverhead to see if any of these property transactions ever occurred. To my knowledge, not one occurred •• well, actually, no. One did occur far, far away from where we're talking about.

But really what I want to talk to you about is the end of Steve Stern's resolution, which is that this traffic light installation, if it ever goes through, would be a Type One. It should not. There are many reasons for this •• I mean it should be Type One, not a Type Two. In many of its claims and specifically related to the proposed the Crooked Hill Road realignment, the SEQRA EIS submitted by the developer and Smithtown was intentionally fraudulent, critical information, misrepresented and omitted to avoid scrutiny that could have resulted in rejection by New York State.

Note that over a seven year period, 1996 to 2003, while the developer held this land, it was converted in steps from residential zoning to light industrial zoning and finally to the intended shopping center business zoning, thereby turning copper into platinum. Taking into account the actual and provable facts related to the Crooked Hill Road realignment, consider the following statements excerpted from the environmental impact statement and also the following critical

facts missing from the environmental impact statement, see the excerpts handout you guys got.

If the Legislature wishes to consider the Crooked Hill Road realignment as work covered by the original SEQRA, the resolution must formally acknowledge two things; one, the realignment is a Type One action, as it was built as a component specified in the EIS and required by Smithtown as part of its covenants and restrictions for approval of zoning changes on which all subsequent permits were based; and two, the resolution should at least formally note that there's a serious question of fact about the legality of the SEQRA. If the Crooked Hill Road realignment is to be considered as a separate work project, the Legislature must first consider that this would clearly qualify as a legal segmentation under SEQRA regulations. Putting this aside, the realignment still must be classified as a SEQRA Type One for the same reasons stated above.

We sincerely hope that the Legislature will not allow itself to be dragged into a possible fraud and other illegal actions either by essentially blessing the original SEQRA or by allowing the illegal segmentation and incorrect qualification of this part of this big box crossing project. If it was part of the original project, which was a Type One, it has to be Type One. You can't segment it and say it's a Type Two. The Legislature should take every step within its power to prevent even the possibility that this illegal unnecessary and dangerous road realignment might go forward without appropriate legal filings and full formal review.

And just as a side note, the private property issue still stands. We have a map from 1978 that was certified by you the County Clerk of Suffolk County that shows that there's only a limited slope and embankment easements on the corner of Northgate



and Commack Road where they're trying to put in this traffic light. I came and talked to you about a month and a half ago at the full Legislature meeting. And I today went •• what the County is giving us now •• DPW, in fact, is giving us to rebut this private property claim, is a map from 1967 that is a plan to acquire property to reconfigure Commack Road. I went to see if any of these property transactions to acquire this land ever happened. I only found one, and it was all the way by Jericho Turnpike, not where we're talking about. So I think that's actually an absolutely moot point, the '67 map that they're giving us. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Eugene Wishod.

**MR. WISHOD:**

Mr. Chairman, I'm here to address 1854, which is an increase in connection fees to County sewer districts.

**CHAIRMAN SCHNEIDERMAN:**

All right. Why don't we wait? I'll call you up in a little while. Let's take all •• we'll stay on the same topic here and we'll get through the cards, if you don't mind. Laura Corvi and on deck is Martin from Stonehurst Lane.

**MS. CORVI:**

Good afternoon. My name is Laura Corvi. I'm at 26 Stonehurst

Lane in Dix Hills. And I'm a stay at home mom, I used to have a good job. And I'm speaking for a lot of the people that I spoke to that could not attend today, because it's at 1:15 in the afternoon, and many people have to work to pay the incredible taxes that we pay to live in that neighborhood. And we like the neighborhood, and we would like to continue to like it.

I moved to Long Island because this is where my family is. I was looking in Connecticut to live there, because the taxes were much less. I moved here because of my family. Well, let me tell you. My family has moved to cheaper places. I'm the only one left here. When my kids grow up, I'm out of here. And the Legislature, the people that keep increasing our taxes, keep abusing our money, are killing everybody else, they're killing Long Island as a place to live.

You're opening a Wal•Mart, a Home Depot. That's the third Home Depot in, what, a two mile radius? I don't know what they are thinking, but why aren't we saying no? You people are •• well, you people, whatever, the Legislature is elected to protect us as residents, and yet our desires, our needs, and our quality of life is not even considered here. You just •• because PJ Ventures or anybody else plays golf with somebody or their kid goes to private school with somebody's kid, then our needs are not taken into affect. You all live in neighborhoods, and if this was happening in your neighborhood, you'd be pretty upset too.

We pay a lot in taxes, and it's become ridiculous. Nobody can afford to stay here, and you're making the quality of life disappear. I have relatives in Queens. They said traffic is worse on Commack Road then in Queens. I cannot get out of my neighborhood and go east on the LIE at three o'clock in the afternoon on any day of the week, any day.



As far as the quality of life, another thing is every student in Commack is on a school bus up and down Commack Road. Commack Road. Do you see the size •• have any of you ever spent any time, besides Steve Stern, on Commack Road, actually sat there and looked at the trucks, looked at the traffic? How can you tell me that you could possibly allow these people to put these trucks on Commack Road? That's why Home Depot doesn't like the location in East Northport, because those big trucks can't fit in and out because of the intersection there. So what are they going to do? They are going to do it 100 feet from my house. That's crazy. You know, the whole purpose of living on Long Island is disintegrating.

Also, I wanted to mention as far as one thing for you to look out into the audience and realize, how many people have made it a priority, have left work and been here to come to this because it's that important to us, to our children, to the quality of life that we wanted. Another thing, which is very predominant in news, is this is an election year. And let me tell you, the people who could not come, they still •• every one of us will be voting at every selection. We have good turn out in our neighborhood, and we are not going to forget the names. And, Steve, thank you. Thank you for everything you have done. I hope it doesn't kill your political career.

## **CHAIRMAN SCHNEIDERMAN:**

Next is Martin representing NIGCA. And again, though I understand how deep the emotions run here, if you agree with what's been said, you don't need to restate it. There are Legislators who are going to have to leave soon, so I'm trying to move the meeting along as quick as I can.

**MR. MIELOSZYK:**

Good afternoon. I'll make it very quick then. My name is Martin Mieloszyk, 21 Stonehurst. I'm a banker and financial adviser, so you can imagine that I speak to many, many residents of Long Island. And I'm not going to go into stories about the concerns about taxes, quality of life and why young people cannot afford to buy houses on Long Island and retirees move out of Long Island because they can't afford taxes anymore.

I'm also a member of the Board of Directors of Imperial Garden Community Association that was created as an association to deal with problems in our neighborhood on an emotional analytical level. And that's what we're hear to ask you, to listen to our voices, not blaming you for what's wrong and complaining about things, but bring facts to the table that we jointly can analyze. I do agree with topics that my colleagues •• previous speakers brought out. Some are going to repeat those.

I just would want to mention that I was born in Europe and I had to live with the consequences of wrong decisions everyday. When I came to Long Island probably about ten or 12 years ago, it was a rural area, where one township was separated by greenbelts from the other. It's no more that way. Today, the decision of one township has a direct impact of another one, which we see clearly by the decision from Smithtown impacting residents of Dix Hills.

What I want to ask you for is simply as Suffolk County Legislators to step into and help us residents, and, I guess, plan makers of •• in different townships to create more centralized plans for development of Long Island so there was between

corporations like Home Depot and Lowe's that's trying to position themselves at certain mileage radius so the different company cannot step in does not impact the quality of life of residents of Long Island, because that is •• they should serve residents, not their own capital gain. Thank you very much.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Julie {Altmann}. On deck is Michael {Cohen}.

**MS. {ALTMANN}:**

Hi. My name is Julie {Altmann}, 15 Pickering Place in Dix Hills. I'm speaking today as a mother and as an attorney. And unlike most of the people who are here who live in the new Imperial Gardens right across the street from this new shopping center, I live out of Village Hill Drive, which is right off Vanderbilt, which is also being affected, and that's the reason I wanted to talk today, to let you know that it's not just one particular neighborhood, that it's really broader than that.

I brought my house four years ago expecting a certain quality of life. I chose my neighborhood because of the, you know, quite serene sort of atmosphere that you find here as opposed to other places, not knowing, of course, that this would become a virtual dumping ground for every project that Suffolk County wanted to build. With respect to this particular traffic light, this was done without regard to the people who live here, the residents, the people who work here. It was done without proper filing, without proper research.

I am no expert on traffic studies, but just as a person traveling

down Commack Road every day of the week either for work or taking my children to and from, I can tell you that there are certain times of the day that it's virtually impossible to get towards the LIE. And with this new shopping center and all the cars and all the trucks and all the traffic, it's unimaginable as to what it's going to be once this opens up.

With regard to this gas line, the fact that it's •• you know, that construction is going forward •• I passed by today, I saw a trucks out there •• the fact that it's going forward with this potential danger to our community is an outrage. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Michael {Cohen}.

**MR. {COHEN}:**

Mr. Chairman, I'm here to speak to 1854, so maybe I should wait until later.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Roberta {Marx}.

**MS. {Marx}:**

Good afternoon. I live just south of the Expressway. And frankly, I feel that I •• and I've lived in this area in my particular

house for over 40 years, so I'm not new to the neighborhood, I'm not new to traffic, I'm not new to the troubles on Commack Road. But I have to tell you, with everything that has been going on, I feel that I am living in the midst of the perfect storm. I want you to know that we may soon be living in the affects of a tsunami, a tsunami of traffic, a tsunami of terrible air, a tsunami of terrible living conditions, because people can't get from one place to another. I cannot go shopping and bring home ice cream unmelted.

Every day life is totally affected by these big box stores. Heartland is coming down where Pilgrim was. Tanger is coming into Babylon. And all of the traffic will be on Commack Road. How will we get north and south of the Expressway? We won't be able to. So, you know, we're supposed to be intelligent people, we're supposed to be aware about planning. This is not new when people want to construct shopping centers or build traffic lights. This has been going on for a long time. We should know better. When do we learn?

This is affecting be a lot of people, and it will probably affect you when you have to be in this neighborhood. So please, please consider what we're saying here. We're very, very disheartened. We're disheartened because we are not being fairly represented. We feel cheated. We feel cheated from having the right to talk to our Legislators and get some results. I appreciate your time and your attention, and I hope that you will take this under very careful consideration. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Sue Devore.

**MS. DEVORE:**

Good afternoon. My name is Sue Devore. I live on 119 Stonehurst Lane where the traffic light is going. I realize now how much the local politicians affect my life. And your legislation is affecting my life living right there on the corner. The proposed location for the Commack Road traffic support pole at Northgate is on private property. And there is insufficient County right-of-way to safely locate the pole anywhere else on the west side of Commack Road as is required to support the proposed Crooked Hill Road realignment.

The traffic signal support pole proposed to be installed at the corner of Northgate and Commack Road would require the use of private property belonging to me at 119 Stonehurst Lane. All the legally filed maps, surveys and deeds clearly reflect that the maximum width of Commack Road in the area is 92 feet, and we have maps to show that. The laws referenced by Attorney Malafi to me dated on June 28th is unrelated to the actual private property issue, which is controlled by New York State Highway Law 118. The law specifically states that the County may not even propose much less permit a roadwork project without first taking steps necessary to secure the right-of-way from private property owners of which I was never ever notified.

Related to this issue is Steve Levy's letter of 8/9 '06 to Huntington Town Board, which states, and I quote, your letter incorrectly suggests that the change of zone and the construction to take place at the site is somehow contingent on whether or not the Crooked Hill Road is renovated, end of quote. Smithtown's documentation clearly states that not does zoning change, but also the granting of COs is contingent on the construction of the new road and the installation of the traffic signal. Interestingly, both Levy and Malafi's letter to me dated



6/26 admit that the installation location proposed for the traffic signal pole is on my property.

It is worth noting that the Henry Street pole is installed on private property as well as being in a legal proximity to a major gas pipeline. And I am petrified, being a few hundred feet from that pipeline. When I came to the meeting in Riverhead last year, I was told by the Town of Huntington attorneys that my voice didn't count because I was 400 feet away from that box store project and not 200 feet that the law requires. Well, now it's right on top of me, and I feel like no one is listening to me and no one is hearing my voice.

Again, we hope that the Legislature will not allow itself to be dragged into illegal activity by, in this case, voting to allow the traffic pole installation to go forward, thereby authorizing the theft of private property by Suffolk County for the sole purposes of satisfying the desires of a private developer. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Andy Glass.

**MR. GLASS:**

Hi. My name is Andy Glass. I live at 26 Cedar Ridge Lane in the new Imperial Gardens. One of things that hasn't been done here is to actually make sure you understand technically from an engineering standpoint what you're looking at when you're looking at these above ground structures that are associated with gas lines.



The regulations •• the federal regulations that keep being bandied about by people that I know know better, refer to structures that are completely underground. There's case law examples that show the structure that's associated with the gas line can be 350 feet a roadway and a car can hit it, and the gas company is still •• and potentially the County is still completely liable with huge awards. These pictures on this handout, I think, make it perfectly clear.

When they dug this out, I stuck my hand in the hole, I laid my little finger on the pipe, I laid my thumb on the footing. If you look at some of these, there's cases here that are exactly like this. If you look at the bending moment applied to the pole by the high tense line that supports the traffic signals, anything •• and I'm an engineer •• anything that dislodges that pole, any hit, any vector, any force that dislodges that pole, that soft {slimy} soil, will result in the pipeline being struck. Period. It's unavoidable if the footing is dislodged.

We had 570 accidents on Commack road in 2004, 37 school bus accidents, two of which involved my daughter, by the way, and there were a number, a significant number, of pole hits and a number of downed poles. The developer has previously installed an illegal pole without the documentation required by KeySpan, without KeySpan being present. KeySpan engineers did even know it was there until we told them. They've tried on numerous occasions to excavate and install other structures directly over the gas line at Northgate. The only reason that light is not there on top of that gas line is because we were there and we stopped them. They were going to do it, no KeySpan, no engineering review, no drawings.

The thing that is insane about this is why is SC DPW and Levy aiding, abetting and expediting this when there's all these questions of fact? You would at least back up •• I've been running businesses as a CEO for 30 years •• you at least back up when there's questions of fact, you say stop, you think, you take a deep breath, you do not go forward like Bill Hillman and say, "We're putting that thing in no matter what." That's irresponsible, dangerous and, in this case, it's illegal.

To those comments, I would like to add maybe the thing that just •• a couple of things that just make me crazy. The intimidation tactics being used by Levy and Malafi right now with letters libeling me and Susan Nudelman and a previous letter from Malafi threatening to sue me to which I responded and she never came back, because I showed her all the misrepresentations that she personally made, stonewalling, misrepresentation and now blatant outright attempts at intimidating the Devores, myself, Susan Nudelman, irresponsible for an elected official to attack constituents.

**CHAIRMAN SCHNEIDERMAN:**

I'm going to ask you to refrain from that type of comment. I don't think it's proper for this proceeding.

**MR. GLASS:**

Okay. Fine. Another note, it's interesting to note that the •• that entire big box crossing shopping center is generated 1.7 in property taxes. Compare that to the 3.3 million that we just •• the residents of new Imperial Gardens pay, it's sort of like who are the elected officials working for? We are paying double the property taxes, just us, our little neighborhood, of that shopping center, projected. Based on all the irregularities, look at this

documentation, look at the documentation, please. The SEQRA is fraudulent. It's clearly •• it's clear that it was intentional. The project should go back to zero. There are numerous issues; right•of•way, private property, federal pipeline safety violations that cannot be overcome. So the project has to go back to zero. And we'd appreciate the Legislature's support in making that happen. Thank you. George {Petingill}.

## **MR. {PETINGILL} :**

My name is George {Petingill}. I live at 9 Pashen Place, Dix Hills. It's to the credit of the County Legislature that one of your members has made such extreme efforts to dig into, to understand and to listening to people on this issue and issues that are similar to it where we are being boxed in by big box development, commercial developments. And I •• it reflects credit on you that your Legislator Steve Stern has been trying to understand and trying to find ways of helping.

This Resolution 1892, would be a step that would be •• would distinguish this body by moving ahead and taking action to see that an impending disaster does not occur. There have been communications with the New York State Department of Transportation, however, they've been one•way communications, because unlike this body, the Department of Transportation of the State will not listen to any people and will not allow any questions to be asked or will not answer any questions.

However, it was acknowledged by the State Department of Transportation to the Office of Senator John Flanagan this past week •• this week that more than 600 communications have been received by the New York State Department of Transportation. I had the opportunity to deliver 73 of these by

certified return receipt mail since I was told no one would talk to me if I delivered them.

And Newsday, for some strange reason, has endorsed one of these neighborhood projects, which is the expansion of a polluting noisy truck stop in a major residential area near us here, and unfortunately, has done this in the name of tourism. The truck stop is not a tourist stop. The tourist stop or the railroad car could stay there, but the truck stop could be moved, for example, to the intermodal •• the proposed intermodal facility where trucks meet trains within the property that is now Pilgrim State.

If you want to be safe and keep your children and your families safe, I suggest you try to stay away from Commack Road, because I watch the 20 inch, this is a big size pipe, being put in a few years ago all the way down Commack Road going •• going north. I'm not sure of this, but I believe that gas comes from Connecticut serving a major part of Suffolk County. And from what I have read, I understand that the pressure in that 20 inch pipeline may be 350 pounds per square inch. Now, that is a Holocaust in the making if a traffic light is put and is knocked down and causes explosions, such as those in the materials that Andy Glass had prepared, and I think •• did everyone get it? Did all of the Legislators get it? So thank you very much for the opportunity to be heard. And we ask you to pass, hopefully, unanimously Resolution 1892.

**CHAIRMAN SCHNEIDERMAN:**

And lastly on this subject, Michael Gordon.

**MR. GORDON:**

Members of the committee, good afternoon. My name is Micheal Gordon, 30 Cedar Ridge Lane, Dix Hills. And I'm speaking in front of you today under slightly different circumstance than the previous speakers, many of whom are my neighbors. Although my concerns about this poorly planned massive project echo theirs, I have the unique problem of having one foot in the Town of Huntington and one foot in the Town of Smithtown.

My family, as well as my responsibilities as a Board Member of the new Imperial Gardens Community Association are as important as my responsibilities as a commercial property owner on the Smithtown side of Commack Road directly adjacent to Crooked Hill Road. My wife and I both have businesses at this location. And I'm seriously concerned about the safety and security of my wife's patients and employees, my clients and employees and my tenants and their concerns as the traffic as crime will permeate this community almost immediately.

I am much more than just concerned now that my five year old will be entering kindergarten in September. Over the past few years, numerous fatal traffic accidents have occurred on Commack Road, several of them involving school buses. Some of you may be thinking, well, Mr. Gordon, if you are so against this project, did you speak in front of the Smithtown Town Board before all this was approved. My answer would have been yes had I been given the opportunity. However, conveniently, no written notice as required by law was give to several property owners along Commack Road, myself included.

Among the professional credentials I hold, one of them is the CFE, Certified Fraud Examiner. I investigate fraud and white collar crime in addition to my normal CPA•type client

responsibilities. And I'll only say this. Over the past year that I've been involved in fighting this project, too many things have happened and too many things uncovered that give the appearance of impropriety. Thank you very much. Please support 1892.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. That's all the cards I have on that subject. I'll entertain a motion to take 1892 out of order. Motion by Legislator Browning, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? 1892 is before us.

**1892 (Directing the Department of Public Works to stop a traffic signal installation).**

**LEG. ROMAINE:**

Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Romaine.

**LEG. ROMAINE:**

Unfortunately, my car broke down on the Expressway, which is why I was delayed for this meeting. However, I don't know if the County Executive or Public Works has commented on this



resolution as of yet.

**CHAIRMAN SCHNEIDERMAN:**

I will bring them forward in a moment.

**LEG. ROMAINE:**

Okay.

**CHAIRMAN SCHNEIDERMAN:**

First, we'll begin to debate the motion once we have a motion to adopt. Do we have a motion to approve? A motion to approve by Legislator Horsley, seconded by Legislator D'Amaro. On the motion, we have had a request from Legislator Romaine, which I would second to have the Commissioner of Public Works •• of the rouge Department of Public Works, so called.

I would ask that the audience comports them selves in a professional manner, and we have a quiet •• even if you don't agree with everything that's being said •• I asked for that before, and it seems like it fell on deaf ears. So, again, I ask that you remain silent so we can hear everything the Commissioner has to offer. Okay. Commissioner, if you'd comment on this bill, which actually puts everything kind of in your court, it asks that the installation •• the permits be suspended and that you then would have to submit certain proof that there would be no public safety harm and that the property itself, we had the right to construct in this location. So if you could comment.



## **COMMISSIONER BARTHA:**

Okay. First, as you know, we are always glad to submit anything that is requested of us, and we have and are prepared to submit that information to anyone any time with respect to the permit, our authority to be on the property and any other facts related to it. We do not believe that this legislation is appropriate in the Legislative body directing Public Works, how to handle a safety manner. There are certain responsibilities the Commissioner has under the Charter as well as New York State Law.

But that being aside, let me point out that this is •• DPW and Suffolk County did not approve the construction of the project to which the community is objecting. This •• and in fact, the Suffolk County Planning Commission raised objections to this project. Projects were approved by the town. Our role is to mitigate the traffic based on the SEQRA approval and SEQRA process that was conducted by the developer and approved by the town. The signal at Henry Street is not the subject of this resolution, and in fact, it has been •• which was installed several years ago, and in fact, has been established to be two and a half inches closer to a gas main than it should be.

We are working with KeySpan and the Public Service Commission to address that. It's KeySpan's responsibility to develop a plan to handle that, as the gas main was installed by them under permit from us. All work that is going on at this time at Commack Road and Crooked Hill Road is absolutely consistent with the applicable standards of the PSC. And the signal is being installed to mitigate the traffic. We cannot make this project go away. Our responsibility at the Public Works Department is to mitigate the traffic.

**CHAIRMAN SCHNEIDERMAN:**

Will the passage of this bill have any affect on the installation?

**COMMISSIONER BARTHA:**

The installation is under way now. I would anticipate by the time the bill is passed, the installation will be completed.

**CHAIRMAN SCHNEIDERMAN:**

Because it would have to go to the Legislature and then it would have to go to the County Executive, right? So it would not become law potentially for at least a week, right? It will be completed. Any questions for the Commissioner? We have several, starting with Legislator Kennedy.

**COMMISSIONER BARTHA:**

Maybe I can just clarify one thing Bill Hillman pointed out. There's a temporary installation that's under way now, a temporary pole and supports, because it takes a long time to order and receive the poles. That work will still remain to be done.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Kennedy.

**LEG. KENNEDY:**

Thank you, Mr. Chair. We have had many, many, many conversations about this project, a lot of requests for documents, materials, maps, things such as that. Several of the speakers made comments, I guess, that run to some really fundamental base law questions, though. And I guess the first thing that I would go to is the person in particular, the homeowner, who's claiming that installation is actually on her private property and the statements association with the subdivision map that was filed and then the comments associated with the road taking. Can you or can the County Attorney's Office tell me definitively who owns the land where this pole is being put?

**COMMISSIONER BARTHA:**

Bill Hillman is going to respond to that?

**MR. HILLMAN:**

We have had an opportunity to review both of the 1978 subdivision plans and the 1967 acquisition maps for the County Road, for the Commack Road right•of•way, and we believe that there's some confusion with the residents of the area in interpretation of those maps. So the interpretation of those maps, we believe, is really at the heart of the matter.

The right•of•way that is shown on the 1978 acquisition maps,

the community is taking •• or believes that that is the curb line, and it is not. It is the right•of•way line. And the right•of•way is ten feet behind the curb line. So if you miss •• if you assume that the line shown on that map is the curb lane, I can understand the frustration and the perception that the traffic signal is being installed on private property. However, that is not the case. That is a right•of•way line, and that plan does not show the curb line. So there can be some ambiguity there.

**LEG. KENNEDY:**

Well, the subdivision map is something that is filed at a particular town level by an entrepreneur. The road taking is actually a judicial process that the municipality commences and then goes through something analogous to eminent domain. So what is it that the road takings associated with the widening show at this point? What is the width of the road bed, not necessarily asphalt, the road bed?

**MR. HILLMAN:**

The right•of•way?

**LEG. KENNEDY:**

Yes.

**MR. HILLMAN:**

In the vicinity of Northgate, there's 104 foot right•of•way.

**LEG. KENNEDY:**

And so then the proposed location for either this temporary pole and/or the permanent fixture lies within the context of that 104 for right•of•way?

**MR. HILLMAN:**

That is correct.

**LEG. KENNEDY:**

Okay. Take me through now some of what's going on as far as the concerns that folks are raising associated with proximity to the gas lines. First of all, who determines what proximity is in location to gas lines? Is this FERC regulations as far as governing construction? What are we under?

**MR. HILLMAN:**

PSC regulations, public ••

**LEG. KENNEDY:**

Public Service Commission.

**MR. HILLMAN:**

Public Service Commission, correct.

**LEG. KENNEDY:**

Okay. And what is the minimum clearance or location for some external structure to a gas line?

**MR. HILLMAN:**

Twelve inches.

**LEG. KENNEDY:**

Okay. What happens when you have something that's been located, such as we now have apparently at Henry Street, that violates that minimum offset requirement?

**MR. HILLMAN:**

If I can read just a brief sentence out of the additional regulations that PSC has.

**LEG. KENNEDY:**

Sure.

**MR. HILLMAN:**

When pipelines must be installed where they are subject to natural hazards •• they go on to list quite a few •• conditions which may cause serious movement or abnormal loads on the pipeline, reasonable precaution shall be taken. And right now, KeySpan and PSC are developing a solution to conform to that regulation. And I can't speak to what the reasonable precaution is, because they are developing that right now.

**COMMISSIONER BARTHA:**

But again, that does not relate to the signal at hand.

**MR. HILLMAN:**

That is correct.

**LEG. KENNEDY:**

Yes, that's right. I know that Henry Street is different from this intersection, which is the newly created contact between County Road 13 and Commack Road. I have several other questions associated with this, but I think there's a point that important for you to speak to associated with the ultimate issuance of a Certificate of Occupancy associated with this project at this point. Do you have the ability to •• if this light does not go in, will that stop of issuance of a Certificate of Occupancy associated with this commercial building?

**COMMISSIONER BARTHA:**

That's a legal question.



**LEG. KENNEDY:**

Right. Then the County Attorney is here, I'm going to invite her, if I can, through the Chair, to go ahead and join the discussion.

**CHAIRMAN SCHNEIDERMAN:**

At this point, I invite County Attorney, Christine Malafi to the table. Legislator Kennedy, if you'll reask your question.

**LEG. KENNEDY:**

Good afternoon, Counselor. How are you?

**MS. MALAFI:**

Good afternoon. Fine. How are you?

**LEG. KENNEDY:**

Very well.

**MS. MALAFI:**

The requirement of the traffic light is in the Suffolk County Road curb cut permit. I do not know whether or not the Town of

Smithtown's listings of what it requires for a CO is listed on that. I do not believe so. But that's a Town of Smithtown question, because the towns control the zoning, not the County. I don't know if you want me to answer •• I'll just take questions.

**LEG. KENNEDY:**

Part of what you are eluding to, I guess, is something that may ultimately impact or where we may or may not go with this, but I'd like you restate that again for the record as far as the ability to governor issuance of a C of O.

**MS. MALAFI:**

The County has absolutely no ability to stop the Certificate of Occupancy from being issued by the Town of Smithtown. That's a zoning issue, and that's solely within the town.

**LEG. KENNEDY:**

So the fact there is the approval, there's been the development, there's been •• whatever has gone on associated with this and there may or may not have been a whole host of SEQRA irregularities or whatever may or may not have risen with this, regardless of what we do with this resolution, we will not be able to go ahead and stop that issuance.

**MS. MALAFI:**

Not only will you not be able to stop it, but you could be

exposing the County to potential liability for the failure to have the light there with this shopping center open.

**LEG. KENNEDY:**

In what respect? I don't understand.

**MS. MALAFI:**

If there's an accident at the intersection and somebody blames it on the failure of the County to install the light that the County has required be there, we can be subject to liability. And there have been cases, not only on point, but dealing with Suffolk County where similar circumstances have occurred; an accident occurs at an intersection without a light, and the County was held liable.

**LEG. KENNEDY:**

I'll yield for the time being, Mr. Chair. I may want to come back to this. Thank you. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Just a quick clarification on that last point, because your comments •• I wasn't sure if your comment was specific to if, let's say, the town did not issue a CO based upon there not being a light or whether this resolution itself that could hold up the installation of the light would expose the County to liability.

**MS. MALAFI:**

I'm not sure I understand your question. If the shopping center opens without this light, there is potential liability to the County, if an accident occurs at the intersection and the people involved in the accident blame it and are able prove that it occur as a result of there being no light at the intersection.

**CHAIRMAN SCHNEIDERMAN:**

So then the resolution that is before us, if it were to pass and it did lead to a delay in the light, that may create a •• it might expose the County liability wise?

**MS. MALAFI:**

Absolutely.

**CHAIRMAN SCHNEIDERMAN:**

All right. Legislator D'Amaro.

**LEG. D'AMARO:**

Thank you, Mr. Chairman. I wanted to go back to what Commissioner Bartha was talking about, the actual process here and how we got to this point. The only role that the County played in the construction and installation and the planning for this particular signal and pole for a traffic light is the issuance of

a permit, that an accurate statement?

**COMMISSIONER BARTHA:**

Yes.

**LEG. D'AMARO:**

What is the permit process •• what are you permitting under the permit?

**COMMISSIONER BARTHA:**

I'll defer to Bill.

**MR. HILLMAN:**

During the review process, we worked with the developer to the best of our ability and requested mitigations. We make these requests to the Town of Smithtown who is lead agency.

**LEG. D'AMARO:**

Well, you know, before you go on, you're requesting mitigation. So if you're requesting mitigation, then there is some aspect of the installation that may be a problem; is that accurate?

**MS. MALAFI:**

I'm sorry, I'll just interject with the legal aspect, how we actually got to this point. The Town of Smithtown had the zoning application for this project for it. Because it was within 500 feet, some of the project was within 500 feet of the Huntington Town line, it went to the Suffolk County Planning Commission. The Suffolk County Planning Commission, which has a member from each town represented on the Planning Commission, voted to disapprove this project. What that meant was that Smithtown had to pass the project, the zoning change, by a supermajority, they needed a unanimous vote. They did that. The Town of Huntington then had ten days to object to that, at which point it would have come back under the jurisdiction of the Suffolk County Planning Commission. Huntington did not do that. So the County lost jurisdiction over the project in its entirety. It then came back to the County after the town had approved certain things, and it was left to the County to mitigate the traffic impacts on Commack Road. And then it went to •• that's where DPW comes back in again.

**LEG. D'AMARO:**

So in other words, the County went on record •• the County Planning Commission went on record by their vote in opposition to this project?

**MS. MALAFI:**

Absolutely.

**LEG. D'AMARO:**



And then when it was overruled at the town level, it's still required to come back to the County level, but at that point, it was only for traffic mitigation because we're dealing with a County Road. And part of that solution was the installation of this traffic light. Now •• so in other words, when the County had that more limited jurisdiction over the project, you look at, you know, how do we mitigate traffic, you come up with all different ideas, of course, and then eventually, you decide on a few, and one of them included this light. But when you issue that permit, do you review the installation of the actual infrastructure, the pole itself, or are you limited to just simply saying this is where a pole needs to go, and there are other standards and other agencies that are charged with the responsibility of enforcing how it's installed and whether it's done properly and according to •• you know, to safeguard the public?

**COMMISSIONER BARTHA:**

The developer has to provide us with details as to the pole. There's certain standards, not all signal poles are the same, you need different strength, different height, details with respect to the signal itself. There are different sized faces on the signal. So those details, including the actual location of it, are things that have to be submitted to us in detail.

**LEG. D'AMARO:**

Was part of that review •• did that include the proximity of the pole installation to the gas line?

**COMMISSIONER BARTHA:**

Bill.

**MR. HILLMAN:**

The original plans submitted by the developer did not include the gas mains. Upon, and this is something that happens on a daily basis on every construction project across America. Gas mains •

**CHAIRMAN SCHNEIDERMAN:**

I'm sorry. Can I ask the audience, once again, to please refrain from comment? Everybody had a chance to speak. We listened. Other people are speaking now, and I expect and request the same courtesy.

**LEG. D'AMARO:**

Thank you, Mr. Chairman. Go ahead, please.

**MR. HILLMAN:**

Gas mains, electric lines, poles are commonly, unfortunately, missed during the design process. Those gas mains were not placed on the plans. As soon as they were discovered in the field, all work was halted, PSC was contacted, we were contacted by the developer, and we began to develop mitigation measures to address the gas mains.

**LEG. D'AMARO:**

What were they?

**MR. HILLMAN:**

The four inch •• there's a series of gas mains. There's an 18 inch, a 12 inch and a four inch. And the four inch low pressure gas main will be relocated by KeySpan to provide sufficient clearance for the permanent traffic pole.

**LEG. D'AMARO:**

Give me that again. There were three gas mains, did you say?

**MR. HILLMAN:**

That's correct.

**LEG. D'AMARO:**

Of different size. And one of them, I assume the one that's closest to the footing of the pole is going to be relocated by KeySpan?

**MR. HILLMAN:**

That's correct.

**LEG. D'AMARO:**

And in your opinion, that mitigation is sufficient to safeguard against the potential damage that could be caused and catastrophe that could be caused should that gas main somehow be struck?

**MR. HILLMAN:**

The Public Service Commission and KeySpan are working to resolve those issues that you are asking us.

**LEG. D'AMARO:**

Let me ask you this. When you became aware that some mitigation was required, did the Department of Public Works stop the project?

**MR. HILLMAN:**

The installation of the traffic pole on that ••

**LEG. D'AMARO:**

The pole rather, not the project itself.

**MR. HILLMAN:**

That particular corner was halted, yes.

**LEG. D'AMARO:**

It was?

**MR. HILLMAN:**

Yes.

**LEG. D'AMARO:**

Okay. And that stoppage, work stoppage, continues to this day; is that correct?

**MR. HILLMAN:**

No.

**LEG. D'AMARO:**

I want to understand. What changed between, you know, your decision where you said, hey, there's a problem here, there's a potential risk in the installation and how it's proposed, what changed when you said, let's stop the project and then said, okay •• not the project, but the installation of the pole •• and now it can go forward? What happened in between to change that or to reverse that decision?

**MR. HILLMAN:**

The developer will be installing a temporary wood pole outside of the limits of the gas mains to temporarily •• so the traffic signal can be installed and become operational. When the gas main is relocated, it will be over two feet or close to two feet in clearance, the permanent traffic pole, will be over two feet in clearance to the existing gas mains. And PSC and KeySpan feel that that is sufficient clearance for that particular installation.

**LEG. D'AMARO:**

All right. And the legislation before us today, I believe, is requiring that the pole installation be stopped in its entirety until the utility company commits legally or in writing to relocate that gas line; is that correct? Maybe the County Attorney can address that.

**COMMISSIONER BARTHA:**

We defer to Legislative Counsel as to what the resolution says, but we •• KeySpan has acknowledged that they will move this •• they've given us a letter that they will move this gas main.

**LEG. D'AMARO:**

So we all agree that the installation of the pole as proposed without moving the line is something that should not go forward?



**MR. HILLMAN:**

That's correct.

**LEG. D'AMARO:**

Okay. Would the bill •• and maybe Legislative Counsel needs to address this •• would the legislation before us today also stop the installation of the temporary fix, the wood pole, going in?

**AUDIENCE MEMBER:**

It's there already.

**CHAIRMAN SCHNEIDERMAN:**

The question is for Legislative Counsel. Although, I do agree that the information provided by the audience was useful. The pole is up. So the answer is it could not stop the erection of the pole.

**LEG. D'AMARO:**

At this point, I withdraw that question, and fair enough. So we have a temporary •• we have the temporary pole up, and now we're waiting for KeySpan to commit by contract, I guess, to move the line; is that accurate?

**MR. HILLMAN:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

Can I ask at this point if a representative of KeySpan is here?  
No? I guess there is not.

**CHAIRMAN SCHNEIDERMAN:**

Legislative Counsel wanted to provide a clarifying note.

**MR. BARRY:**

IR 1892 would do two things. It would require that DPW submit to the Legislature the proper documentation establishing the right•of•way, the County's right•of•way, and also that DPW with written authorization from KeySpan, determines that the installation will be performed safely. It's different then requiring a contract that they will move the line.

**LEG. D'AMARO:**

What was the language again?

**MR. BARRY:**

Provide documentation that the installation will be performed safely.

**LEG. D'AMARO:**

Documentation from •• who would that documentation come from?

**MR. BARRY:**

KeySpan.

**LEG. D'AMARO:**

From KeySpan that the installation will be performed safely.

**CHAIRMAN SCHNEIDERMAN:**

There was a third thing, I think it's important, it also requires that even after those documentations are presented, it has to come back to the Legislature for approval once again.

**LEG. D'AMARO:**

So my question then to Commissioner Bartha is you have stated at the outset that the administration was opposed to this resolution, but aren't you, in affect, doing the same thing anyway?

**COMMISSIONER BARTHA:**

I said that I was opposed •• Public Works was opposed to the

resolution.

**LEG. D'AMARO:**

As redundant or as something that you're already doing?

**COMMISSIONER BARTHA:**

First off, fundamentally, I don't believe the Legislature has the authority to direct this. Second, on this Second Resolved, which has the items that you just cited, we're prepared to provide the information right now, and we have provided it to various people that had requested it. So I'm agreeing with you there is no need for this resolution.

**LEG. D'AMARO:**

Because Public Works has reviewed this and agrees that some mitigation measures, including moving the gas line are required, and that's the course of action that you're pursuing now. I'll leave it up to Counsel to debate whether or not we have the authority to do that. I'm encouraged to see at least that you're

- it appears to be that at least with respect to the installation of this particular signal and also with respect to the concerns about the risk posed by the proposed installation as planned, it seems like you
- DPW and the resolution are on the same page.

**COMMISSIONER BARTHA:**

Yes.

**LEG. D'AMARO:**

All right. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Maybe from Legislative Counsel, on the issue of whether we have the authority or not to direct DPW. I recall several situations where we've asked DPW to conduct RFP, Requests for Proposals, and other things. I know at least to some extent, we have directed to hold public hearings, etcetera, in the past. I'm assuming that we have the authority. Can you comment on that issue?

**MR. BARRY:**

Now?

**CHAIRMAN SCHNEIDERMAN:**

Yeah, now. To the extent that DPW is a department of the County, yes, unless the Commissioner is speaking about specific laws that give him specific •• and only him, the authority over this. If he can direct us to that specific law, we can look into it further.

**COMMISSIONER BARTHA:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

Is that what you're referring to, the actual permitting of a traffic light?

**COMMISSIONER BARTHA:**

I'll defer to the County Attorney.

**MS. MALAFI:**

The Vehicle and Traffic Law gives the County Superintendent of Highways, our DPW Commissioner, jurisdiction over the safety of the County roadways. It's questionable whether or not the Legislature can stop him from putting •• from a safety mitigation factor that he has already directed be placed. Questionable. I didn't say prohibited, I said questionable.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Romaine followed by Legislator Stern.

**LEG. ROMAINE:**

If I could ask just a few questions. First, let's start with the Country Attorney's Office if I could. You have indicated that at this point failure to install this traffic light could create a liability



situation for the County in which we could be sued; is that correct?

**MS. MALAFI:**

Absolutely.

**LEG. ROMAINE:**

Let me go further. You have indicated that in your opinion, because you haven't seen the documentation, the fact that a traffic light is not installed by the County will not prevent conclusively the Town of Smithtown from issuing a CO; is that correct?

**MS. MALAFI:**

Yes. The County has no jurisdiction over town zoning.

**LEG. ROMAINE:**

Let me go with DPW or the County Attorney. The County's role in this whole procedure is extremely limited to issuing a permit for a light; is that correct?

**MS. MALAFI:**

And the curb cut.

**LEG. ROMAINE:**

And the curb cut. Let me go further. The County's role in issuing this permit is part of a safety mitigation that the County is imposing on the developer; is that correct?

**MS. MALAFI:**

Yes.

**LEG. ROMAINE:**

It's not the town, it's the County imposing this as a safety condition.

**MS. MALAFI:**

Yes.

**LEG. ROMAINE:**

Our Planning Commission rejected this project.

**MS. MALAFI:**

Absolutely.

**LEG. ROMAINE:**

The fact that Huntington did not object when Smithtown approved the project by a supermajority denied the County the opportunity of lead agency status in this manner.

**MS. MALAFI:**

Absolutely. And it was a unanimous vote by the Town of Smithtown.

**LEG. ROMAINE:**

It was a unanimous vote. And Huntington's failure to intercede prevented the County from having •• well, Huntington not acting or objecting meant that the County was denied lead agency status.

**MS. MALAFI:**

Without placing blame, I will say that the reason the County could no longer become involved is because the adjoining town did not file objections after Smithtown approved the project.

**LEG. ROMAINE:**

Okay. Now let me go with DPW. My understanding of this resolution •• I don't have a copy in front of me, but I listened and relied on our Counsel •• essentially this resolution requires

DPW to submit the property documentation about the right of way; is that correct?

**COMMISSIONER BARTHA:**

Yes.

**LEG. ROMAINE:**

Have you submitted that or do you have that documentation, Mr. Bartha?

**COMMISSIONER BARTHA:**

Yes.

**LEG. ROMAINE:**

Thank you. The second thing that this resolution does is it requires documentation, I assume from the developer, that the installations of the gas mains •• actually from KeySpan, I guess, from KeySpan and PSC that the installation of the gas mains would be done safely; is that correct?

**COMMISSIONER BARTHA:**

Yes.

**LEG. ROMAINE:**

Do you have that documentation?

**COMMISSIONER BARTHA:**

Yes.

**LEG. ROMAINE:**

Okay. To get to the crux of the matter, obviously, I understand the purpose of this resolution. And it's probably not either of these two things just from afar, but from my view, it seems like it is to stop or object or say something about this development. And while that may be noble in the course of things, that certainly isn't going to be accomplished by the resolution, particularly if the goals of the resolution have been met, it just would seem like.

What I'm hearing, the aggravation, and maybe I've heard it wrong, but I'm hearing the aggravation of the people and it's probably •• I'm sure they have some legitimate concerns, but it may be misplaced here in the County. And with that, I'm going to ask Mr. Zwirn who is the County Exec's representative to present the County Executive's point of view on this matter.

**MR. ZWIRN:**

Thank you. I have had the opportunity with Legislator Stern to

address many of the people that are here today. And I think there's some question. I understand •• I told them back then that I became a Town Supervisor over issues like this in my town. When the people address the government and they ask for help •• I think this is a cry for help. This is the last stop where they think they can get some sort of help getting this project stopped, whether it's a traffic light, road •• whatever is involved, whatever they can do try to throw the last hook out there to try to stop this project.

The County Executive's position is this. We have had a limited role. The Suffolk County Planning Commission, which had the first opportunity here, agreed with the people that are in this room today and the community, that this was a project that did not have merit and should not have gone forward. But under State Law, the counties do not have the zoning powers. And the Town of Smithtown, as crazy as it all seems when towns border each other, sometimes it's convenient for one town to put a project in a very small part of the their town, which will have more impact on the next town then their own residents, and it's convenient and it works.

## **LEG. MONTANO:**

But Huntington did not object.

## **MR. ZWIRN:**

That's true. Huntington had the opportunity to object, and they did not. The only thing that the County Executive would say is that we're so confident that the County Attorney and Public Works has done the right thing with respect to this project, is that if the community felt it necessary to bring a lawsuit against the County to have the courts sort this out, the County would



say that's okay. We don't often invite lawsuits, but the County is very confident.

As angry as these people are, and, you know, I don't blame them. I'd be out there •• if I lived there, I'd be sitting out there right now. But the County Executive is confident that the people in his Administration from top to bottom have done the right thing with their role in this. It doesn't make people happy, but under the law, they have done everything that they were supposed to do. And that's all he can say. He said if these people feel so upset about it and they think the County has not done the right thing, then to bring a lawsuit against the County and we'll defend it and let the chips fall where they may. But we are confident that we would win in a lawsuit.

**LEG. ROMAINE:**

Through the Chair, Mr. Zwirn. Does the County Attorney have an opinion on this specific resolution?

**MS. MALAFI:**

Is that question for me, Legislator Romaine?

**LEG. ROMAINE:**

Does the County Executive have an opinion on this resolution?

**MR. ZWIRN:**

I think he would leave it up to the Law Department of the County. It's a personal opinion on whether the project should go forward or not. He, unfortunately, is not going to have much impact on this.

**LEG. ROMAINE:**

I understand. He can't always exercise his personal choices, sometimes he has to, because of his position, speak to the law. So with that, I'll ask the County Attorney, with the Chair's permission, do you have a legal opinion on this resolution as to its sufficiency?

**MS. MALAFI:**

Legally?

**LEG. ROMAINE:**

I'm sure the County Attorney is going to •• the County Executive, should this pass the Legislature, will turn to you to make a decision whether to veto this or not.

**MS. MALAFI:**

What I will tell you is that we've been involved •• I personally have been involved in this project since the project community came to the County Executive and asked for help. And since that time, almost since the beginning, I've been subjected to

personal attacks, I've been accused of personally aiding and abetting felonies, I've been accused of stealing people's property, me personally. And it's been abusive for the time I've been involved in this.

And the County Executive's Office had numerous meetings that I've been a part of, we've tried to explain numerous times the legal issues that are involved with the project, including the involvement of Suffolk County, the Suffolk County Planning Commission. And just by way of an example, I heard comments here today about the official County map. There is no official County map. We do not have to pass an official County map until the end of this year. There is no official County map. I have been accused of hiding the official County map, of circumventing the law with respect to the nonexistent official County map.

And it's very hard to argue the legal points that have been raised here today and outside here because of the fact that I'm being accused of things that simply are not true. And with respect to whether or not this resolution is proper or not, I have already raised legal questions as to whether or not this body has control over the Commissioner of DPW after he has made a determination that traffic mitigation must occur by the placement of a traffic signal.

And with respect to the conditions that are placed in the resolution, they have been, as far as I'm aware as of now, they've been complied with. KeySpan has indicated that they'll move the objectionable gas lines and that the poles can be placed, there's maps to show the right-of-way of the County. And personally, I don't take a position on it. And I don't know what the County Executive's position is on it.

**LEG. ROMAINE:**

Let me ask you one last question, then I'll turn over the microphone. If this resolution passes, I'm going to give a series of assumptions here, and the County Executive signs it, the day that it's signed, if the DPW Commissioner comes forward with the information he apparently says he has in his possession at this moment, this resolution is moot then.

**MS. MALAFI:**

Absolutely.

**LEG. ROMAINE:**

Okay. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you, Legislator Romaine. Although he is not on this committee officially, he is the man of the hour so to speak, so I'd like to •• in his case, the man of the hour and a half.

**LEG. MONTANO:**

Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you, Steve.

**LEG. STERN:**

Thank you, Mr. Chairman. And having to run, unfortunately, but thank you for the opportunity to be heard. As you correctly point out, I don't serve on this committee, but I appreciate the opportunity to be heard. I'm sure my neighbors appreciate the opportunity to be heard before this body as well, an opportunity to be heard, Mr. Chairman, that we all know is so critically important to hear from residents in the community, unfortunately, as we have all come to learn, an opportunity that was given to this particular community way too late to have the voice that they should have had when all of this was going on so many years ago, simply because they happen to live 100 or 200 feet on the wrong side of some arbitrary town line.

But Mr. Chairman, this is, in essence, a very narrowly drawn resolution. And we can debate for hours the need for regional planning and whether or not this particular project has merit like so many others slated for the Commack Road corridor. This is essentially a very narrow resolution that seeks to bring in true professionals to ensure the safety of this particular traffic light going up. It's a question of private property rights, it's a question of safety.

And there have been legitimate questions that have been raised. And I understand there have been maps that have been more recently produced. I understand that now KeySpan is starting to play a more significant role in ensuring that the project proceeds the way they believe it should be. But for me anyway, it's just too little too late at this point. I know that I

feel would certainly feel much more comfortable as so many of my residents have indicated here today and many of them have put so eloquently that, let's take a step back, let's put a stoplight here, and let's take a step back and ensure that private property rights are not being trampled by this body or by any other, and to ensure that KeySpan signs off on the safety of this particular project. That should not be too hard to do. I don't think that that should take so long to do.

I had requested for weeks literally from County Departments documentation to show that there was, in fact, this right-of-way. I'd requested for weeks from the administrative agency and from KeySpan, documentation showing what the plan was going to be and how they were going to ensure the safety of area residents and motorists in the area. And whether we're taking a look at it now and having a couple of days to review it or for those things that have not yet been submitted, it shouldn't take too long for that to occur. Let's take a step back, let's take a look and ensure that we're doing it correctly.

As far as the legal sufficiency of this particular resolution, I'll leave that to the Administration's Counsel and to our Legislative Counsel. But whether or not the attorneys go back and forth and agree that it's legal, I would certainly have to say that I believe it is right. So I respectfully request the support of my colleagues in this matter. Let's take a step back, let's give it a few days, let's take a look at the documentation with a fresh pair of eyes and go forward from there. Thank you.

## **CHAIRMAN SCHNEIDERMAN:**

Legislator Stern, we heard testimony today that there is documentation on the KeySpan issue, there is documentation on right-of-way issue, though I haven't seen it. I would request

that the Commissioner, his deputies submit that type of documentation. If we are to go forward with this resolution, assuming that documentation is in property order, it seems that the only reason to do it would be to use this permitting process for this traffic light as a way to stop the project from moving forward by forcing it to come back to this Legislature and now making it a decision of this body. But we also have concerns raised by the County Attorney that in doing so, if we succeed and this opens without that traffic light, that there may be exposure to the County itself in doing so, which puts us in a complicated situation. In essence, that's where we are because an issue that is not really our jurisdiction •• excuse me. Excuse me. Excuse me, ma'am. I didn't interrupt you, okay. I think it's important for the County to debate this. We have been talking about this an hour and 40 minutes now.

**AUDIENCE MEMBER:**

But not with all the facts.

**AUDIENCE MEMBER:**

So where's the paper? Where are all of the papers?

**CHAIRMAN SCHNEIDERMAN:**

Legislator Stern, we •• excuse me. Sir, you had an opportunity to speak before. Right now, it is the Legislature's, in this case the committee's chance to question our ••

**AUDIENCE MEMBER:**

We don't get a chance to rebut?

**CHAIRMAN SCHNEIDERMAN:**

Sir, you are out of order. Excuse me, let us proceed. You may,



in fact, get •• excuse me. You may get the vote you want, but you must let the Legislature debate this issue, in this case the committee. So I am just raising this point, because I think it •• it just basically articulates the situation we are in, which is a little bit more complicated than you may want it to be for us. Legislator Stern, if you wanted to respond.

**LEG. STERN:**

Mr. Chairman, a couple of items there. Number one, my understanding, my reading of the permit states that without this light, that there may be an issue as to whether or not Smithtown would be able to grant the CO. So I think there's an issue there as to whether or not there would be traffic flowing here without the safety provided by the traffic light. I don't know if that's necessarily going to be an issue, again, I'll defer to Legislative Counsel on that.

It was surprising for me to hear today, Mr. Chairman, that KeySpan has provided that type of documentation that would ensure the safety going forward, because I have not seen that documentation, I have not been provided that documentation. I've been asking for that very documentation for weeks now. So I don't know whether or not that is a moot issue. Again, I'll reiterate that I believe it's a very narrow issue for this body to consider, but I would like to see that documentation myself.

**CHAIRMAN SCHNEIDERMAN:**

But your resolution, Mr. Stern, Legislator Stern, calls that that documentation be submitted to the Department of Public Works Chairman, and that the Department of Public Works Chairman signs off on it, not that we sign off, and then after that point it comes back to us for a final approval.

So it's not up to this body to determine whether it meets that safety standard, it's up to the Commissioner under your resolution, if I understand it correctly. The Commissioner is saying here today that he is satisfied with the documentation, is that correct, Mr. Bartha?

**COMMISSIONER BARTHA:**

That's correct.

**CHAIRMAN SCHNEIDERMAN:**

All right.

**LEG. STERN:**

Mr. Chairman, if I may. And again, I apologize, because I will need to run, but I would request that since we're here today, that that documentation be provided to myself and to this Legislature and let us have a look at it. Again, this is documentation that I've been requesting for weeks now, and I'm told for the first time today that that documentation has been finally submitted to Department of Public Works. I would request that we have an opportunity to see it for ourselves. If the Commissioner's going to pass on it and represent to this Legislature that he has reviewed it and that it meets safety standards of the Department of Public Works, I think it's something given the seriousness of the nature of this particular issue right now and the timing issue, I think it would be critical that we have an opportunity to review that document.

**CHAIRMAN SCHNEIDERMAN:**

I have some Legislators who have to leave shortly, so I'd like to call a vote on this issue if there are no further comments. And if there are further comments, I would like to ask them be extremely brief. Legislator Horsley.

**LEG. HORSLEY:**

Yes, I have a quick question, and I guess it would be to Counsel, Paul, excuse me, to Counsel. The question is the question on the ownership of the property where there seems to be dispute about the maps, who is the final arbiter of that message, who decides this map is correct or this is not correct, would it be the County Attorney or who's •• at the end of the day, who makes that final decision? There's does seem to be some ongoing question here.

**MR. BARRY:**

Well, if there is a real argument about who owns that, it would be a court.

**LEG. HORSLEY:**

That's what I thought.

**LEG. D'AMARO:**

Mr. Chairman, I just had one more very quickly.

**CHAIRMAN SCHNEIDERMAN:**

Okay. And then I want to talk a little procedural •• procedurally so that ••

**LEG. D'AMARO:**

Sure. I just wanted to ask the County Attorney's Office, and the County Attorney has indicated that there would be potential liability to the County if the project were completed and opened without the light. I'm not sure that the town of •• I'm not ••

**AUDIENCE MEMBER:**

When •• if the place blows up, it's the County's liability.

**CHAIRMAN SCHNEIDERMAN:**

Excuse me. Can you repeat the question? And could I ask the audience to refrain from the comment so we could hear the answer.

**LEG. D'AMARO:**

The County Attorney's Office is indicating that there is some potential liability should the project be completed without the installation of the light, because the County is already on record

as requiring that light as a traffic safety issue. But I also want to ask, wouldn't the County conversely be subjected to even more potential liability if a light went in and it went in improperly or inappropriately and caused some kind of catastrophic disaster?

## **APPLAUSE**

**CHAIRMAN SCHNEIDERMAN:**

Ms. Malafi.

**MS. MALAFI:**

Yes. But the documentation that we've reviewed from DPW, the maps, and from KeySpan indicate that there is no •• there would not be any hazards in the area if everything's done.

**CHAIRMAN SCHNEIDERMAN:**

Okay. All right. At this point •• excuse me. Excuse me. You're all going to get to go home in a moment here. This is where we are right now. This is a committee of the full Legislature, we are the Public Works Committee. We review legislation before going to the floor. Some bills never make it to the floor. There are many things that could happen to a bill. There are several ways it can get to the floor. So what the committee will now decide is whether to not act on this, which would be a tabling motion, whether to discharge it to the floor and let the full Legislature consider it.

If it goes to the floor, there are two ways it can get there. It can get there through a normal approval, which is a recommending approval or we can do it without a recommendation from the committee. Either way it would be before the Legislature, and the Legislature would then •• the full Legislature will have the ability to act upon it.

Because there are some legal questions and some other concerns here, I'm personally going to support discharging this to the floor, but not with an approval recommendation. It will just simply put it in front with no recommendation. So I would like it make a motion to discharge this without recommendation from the committee.

**MS. ORTIZ:**

There is a motion already.

**CHAIRMAN SCHNEIDERMAN:**

There is no motion yet. That would be the motion.

**MS. ORTIZ:**

There is a motion already.

**CHAIRMAN SCHNEIDERMAN:**

Oh, there was a motion earlier.

**MS. ORTIZ:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

There was a motion earlier to approve and a second. So the sponsor •• who made that motion?

**MS. ORTIZ:**

Legislator Horsley.

**CHAIRMAN SCHNEIDERMAN:**

If you withdraw the motion, then we can do that without recommendation.

**MS. ORTIZ:**

Legislator Horsley made the motion and Legislator D'Amaro seconded it.

**CHAIRMAN SCHNEIDERMAN:**

Does discharging without recommendation take precedence?



**MR. BARRY:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

I'm going to make a motion to discharge without recommendation, which I'm being told takes precedence over the regular discharge motion.

**LEG. HORSLEY:**

Okay. I'll make a motion to withdraw my original motion.

**CHAIRMAN SCHNEIDERMAN:**

It's not necessary, but so noted. Okay. So the only motion before us is to discharge without recommendation.

**LEG. MONTANO:**

I'll second that.

**CHAIRMAN SCHNEIDERMAN:**

We have a second by Legislator Montano.

**LEG. D'AMARO:**

On the motion, Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

On the motion, Legislator D'Amaro.

**LEG. D'AMARO:**

I just want to state for the record, my preference would be to approve this legislation out of this committee as opposed to without recommendation, because I think that we should recommend as a legislative body that this type of legislation should go through and error on the side of protecting the residents on that community.

However, with that said, if it gets it to the full body of the Legislature, and I'll have an opportunity to approve this on Tuesday, I will support the motion to discharge without recommendation also.

**CHAIRMAN SCHNEIDERMAN:**

Right. In terms of the effect of whether this bill becomes law, there's no difference in the discharging with recommendation or without recommendation. It has the same affect. I'm sure we'll seeing many of you on Tuesday at the public portion. So there will be another opportunity to address the whole Legislature. So

we have a motion and we have a second. So at this point, if there's no further debate, I will call the vote. All in favor of discharging without recommendation? Any opposed? Abstentions? Bill 1892 is **discharged without recommendation (VOTE:6•0•0•0)**.

**LEG. ROMAINE:**

Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

We have a lot of other business before us. Legislator Romaine.

**LEG. ROMAINE:**

Very quick. The recommendation to the Public Works Commissioner, the documentation that you have, sir, if you could make available to the 18 Legislators before the meeting on Tuesday that would be, I think, helpful. Thank you.

**COMMISSIONER BARTHA:**

We will do that.

**LEG. KENNEDY:**

Through the Chair. Mr. Chairman, also I'm going to make the request to the Public Works Chairman, in particular I want to see that takings map that establishes that 104 foot right•of•way, please.

**COMMISSIONER BARTHA:**

We will give to you.

**CHAIRMAN SCHNEIDERMAN:**

For those of you in the community, I hope you do see this as a victory, because this bill is now eligible for a vote on Tuesday.

**AUDIENCE MEMBER:**

Thank you.

**CHAIRMAN SCHNEIDERMAN:**

We have two •• we're going back to public portion. I'm going to thank these individuals for their patience, they've been waiting quite a long time. We have Micheal Cohen and Eugene Wishod. Are they still here?

**MR. WISHOD:**

Eugene Wishod. I have some brief comments on 1854 that seeks to double immediately the connection for projects being connected to a County sewer district. I do a lot of work in this area both on behalf of individual developers and consortiums of

developers who create capacity by expanding County sewer districts to create the sewer capacity that they need.

Developers want sewer capacity because they can get much greater density with sewer than they can without it. Their alternative to not connecting to a sewer plant whether they build one or connect to an existing one is to build with cesspools where they would get lesser density.

This bill is flawed for several reasons that I'd like to go into briefly. It's not flawed because it increases the connection fee, because I think a connection fee increase might be well justified, whether it should be an across the board increase for all projects, or whether it should be an increase applicable to particular projects, because there are basically two types of connections. And incidentally, in my experience, which spans many, many years, 80% of the connections to County sewer district that come before the Suffolk County Sewer Agency involve residential projects and residential subdivisions, not businesses. And yet, this Legislative intent expressed in this bill talks about businesses connecting to a sewer district.

I don't believe the bill should fairly be effective immediately. I think it ought to be effective not before the •• January 1 of next year to give the development community a fair opportunity to adjust. More important, this proposed bill contains to grandfathering whatever. It applies not only to agreements, not only to applications that are already in process, not only to resolutions of the Sewer Agency granting conceptual certification or formal approval, but it involves agreements that are entered into after the effective date of this legislation. And that discloses and displays a local lack of familiarity with the process.

What normally happens is an application is made to the Sewer Agency for conceptual certification. That's simply to give a builder an opportunity to know what type of sewage treatment the Sewer Agency recommends. Formal approval of an application to connect to a County sewer district awaits a SEQRA determination by the Legislature •• I am a sorry, by the local governing body, by the local town board. Once the SEQRA determination is obtained, an application for formal approval may be made to the Suffolk County Sewer Agency. After that's adopted, then a connection agreement has to be made. A connection agreement take anywhere from six months to 18 months, and this bill will be applying to applications that have received conceptual certification, formal approval and where agreements are delayed simply because they're very complicated. That's a terribly unfair result. And it's myopic, because it concentrates only on the money issue without the other ramifications. There certainly ought to be a fair grandfathering clause in this legislation.

Environmental factors ought to be considered also. If connection to a County sewer district or a sewer plant are too expensive, and that's been the County policy, to avoid a proliferation of individual sewer and consolidate sewer plants and connection, a developer may decide that it's too expensive to connect to the plant, may accept a lesser yield and build cesspools. That will be directly contrary to the County policy against the protection of the groundwater.

I'm surprised that some kind of a committee wasn't appointed before this bill was rushed through, a committee that would involve not only members of the Legislature, but members of the environmental community and members of the development community, because this bill needs further study. It's myopic in the sense that concentrates only on money, and it's

concentration on money may be very justified and it may well be that the current connection fee is below market value and that an increase in the connection fee is justified. But there are many other factors to consider beyond money, and this legislation does not fairly consider those other considerations. Thank you for your attention.

**CHAIRMAN SCHNEIDERMAN:**

Thank you, Mr. Wishod. And the other speaker, Mike Cohen, same bill.

**MR. COHEN:**

Good afternoon. I would like to echo a number of the things that were said by Mr. Wishod, but for a somewhat different reason. I do not stand before you today representing developers or consortiums, I represent a condominium in Bay Shore, a condominium that for the past three years has been working to connect to the Southwest Sewer District. It has 150 units of low and moderate income housing. The sewage treatment plant serving that community gone beyond the end of its useful life.

There is a significant environmental problem that's being monitored closely by the DPW and the Department of Health Services. The community can simply not afford to rebuild this plant. The lower cost option and the only option is to connect to the sewer district. Working with the Office of the State Comptroller, we have gotten the Town of Islip to issue a bond to pay the cost.



This community has conceptual approval for its connection, but it doesn't yet have formal approval. If it is caught in the increase in the connection fee, Lexington Village Condominium will simply be unable to afford to connect. If that happens, the results will be nothing less than catastrophic. The community may well face bankruptcy, and those people may truly be out of their homes and on to the streets.

So I echo Mr. Wishod's idea that this bill needs proper grandfathering, but not only for developers who have significant financial interests, but I think perhaps more importantly existing residential developments that have no opportunity to pass on additional cost to end purchasers, communities that already exist, that already have conceptual approval and who are counting on connection at the current connection fees in order to be able to continue their existence.

A grandfathering along those lines would be appropriate, perhaps a delay or even a staggering on the implementation of the increased connection fee would also be appropriate. I agree too that the financial aspect of this bill makes sense. The current connection fee of \$15 probably is below market. So in concept, the bill is sound. But there are many circumstances not the least of which is Lexington Village Condominium, which will be detrimentally impacted, perhaps fatally so if this bill was to go forward as presently drafted. Thank you.

## **CHAIRMAN SCHNEIDERMAN:**

Thank you, sir. The bill will be in front of us shortly. If the Commissioner of Public Works is still here, please step forward. Thank you, Commissioner Bartha. Is this your last committee meeting?

**COMMISSIONER BARTHA:**

No. There will be one more.

**CHAIRMAN SCHNEIDERMAN:**

One more.

**COMMISSIONER BARTHA:**

I'd hate for it to end being the Commissioner of the rouge department.

**CHAIRMAN SCHNEIDERMAN:**

Okay. So I'm going to move the agenda. There was one item, I think, in particular, though, you may have wanted to address prior to the agenda. I know Legislator Montano has to leave, so is this the issue with the CN request, is that a quickie?

**COMMISSIONER BARTHA:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

Take us through that really quick, and then we'll get right to the

agenda.

**COMMISSIONER BARTHA:**

I expect •• I've requested the County Executive to ask for a CN, he's indicated they will. This is for the reconstruction and widening of Wellwood Avenue over Southern State Parkway. That's a County responsibility, that bridge. It's 80% federal and state funded. We've received bids on the project. The bids were above or estimate. We need approximately \$2.6 million additional to do the project, and those funds will be 80% reimbursement by the state and federal funds.

**CHAIRMAN SCHNEIDERMAN:**

That bill is not in front of us in any respect today.

**COMMISSIONER BARTHA:**

It's not now, but I expect you'll see a CN on Tuesday. I didn't want you to think we were bypassing the committee process. I have all the information for everybody.

**CHAIRMAN SCHNEIDERMAN:**

That's fine. Legislator Montano.

**LEG. HORSLEY:**

1732, Charlie?

**CHAIRMAN SCHNEIDERMAN:**

As things come up, you can ask you questions.

**1164, (Establishing a County policy to require hybrid or alternative fuel buses in the Suffolk County Transit System).**

I'll make a motion to table.

**LEG. MONTANO:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator Montano. All in favor? Opposed? Abstentions? **Tabled (VOTE:7•0•0•0).**

**1492, (A Local Law requiring prior approval from the Suffolk Sewer Agency for the establishment, improvement, or expansion of County Sewer Districts).**

**LEG. HORSLEY:**

Motion to table.

**CHAIRMAN SCHNEIDERMAN:**

There's a motion to table.

**LEG. D'AMARO:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Second. All those in favor? Opposed? Abstentions? 1492 is **tabled (VOTE:7•0•0•0)**.

**1545, (Establishing an Environmentally sound E•Waste Policy for Suffolk County).**

I make a motion to table. Is there a second to table? Only because we'll see it in two weeks and we'll have more time to discuss it.

**LEG. KENNEDY:**

I'll second that motion to table.

**CHAIRMAN SCHNEIDERMAN:**

There's a motion and a second to table. All in favor? Opposed?

**LEG. D'AMARO:**

Opposed.

**LEG. BROWNING:**

Opposed.

**LEG. HORSLEY:**

Opposed.

**CHAIRMAN SCHNEIDERMAN:**

Tabling motion fails.

**LEG. ROMAINE:**

We have four votes in favor of tabling, and three opposed.

**CHAIRMAN SCHNEIDERMAN:**

1545. I saw three votes ••

**LEG. D'AMARO:**

Mr. Chairman, I think ••

**LEG. KENNEDY:**

I apologize, Mr. Chair. I thought we were on 1492. What was the actual disposition of 1492?

**MS. ORTIZ:**

Tabled.

**LEG. KENNEDY:**

Fine. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

1545, which is Establishing an Environmentally sound E•Waste Policy for Suffolk County. I'm sorry, what happened on 1492, I didn't get a chance to read it before somebody made a motion to table, so we just tabled it immediately.



**LEG. KENNEDY:**

I withdraw my second then to table 1545.

**LEG. D'AMARO:**

Mr. Chairman, I'll offer a motion to approve that resolution.

**CHAIRMAN SCHNEIDERMAN:**

Could we get an explanation on this bill?

**MR. BARRY:**

This resolution would direct all Suffolk County department and agencies to whenever possible to reuse electronic equipment and also to require bidders and respondents to solicitations to propose a program in which the bidder will agree to take back the electronic products that have reached the end their useful life in order for them to environmentally recycled.

**CHAIRMAN SCHNEIDERMAN:**

Weren't there some issues that were raised at an earlier meeting about having each department handle this separately, whether there would be efficiencies in doing a County•wide program? That's my recollection. Commissioner, do have any comments on this?

**COMMISSIONER BARTHA:**

Only that the electronic waste that we could identify potential electronic waste are monitors, and in fact, monitors are sold at auction, surplus monitors are sold at auction.

**CHAIRMAN SCHNEIDERMAN:**

This would change that? They wouldn't be sold now, they would be recycled?

**COMMISSIONER BARTHA:**

I don't believe so, because we are not actually discarding them, we are selling them.

**CHAIRMAN SCHNEIDERMAN:**

Okay. Counsel.

**MR. BARRY:**

This resolution would cover those electronic products, all electronic products, not just computer products, that cannot be or aren't auctioned or donated.

**CHAIRMAN SCHNEIDERMAN:**

Okay. So then it wouldn't apply to monitors. Legislator

Romaine. This is why I wanted to table it to a time when we can discuss it in greater detail.

**LEG. ROMAINE:**

The only question I would have is I'd like to know the cost implications for the County, because if we start mandating things and we don't know their cost, while we have a general good in mind, the road to hell is paved with good intentions. What I'm concerned about is that this will actually wind up costing more money to the County and not really resolve what may be a major environmental problem. I understand disposing of electronics does create difficulty, it poses an environmental problem, but what is the cost of implementing this? And I'd like •• maybe Budget Review can address that issue.

**CHAIRMAN SCHNEIDERMAN:**

We are meeting in two weeks. Again, I would ask just in the interest of getting to the end of the agenda that we don't force the debate on this issue.

**LEG. D'AMARO:**

And, Mr. Chairman, also, I agree with Legislator Romaine, I would like to ask Budget Review if a fiscal impact statement has been generated.

**LEG. MONTANO:**

There is one, and it says that ••

**LEG. ROMAINE:**

What does it say?

**LEG. MONTANO:**

It says, "to be determined by responses to the RFP," whatever that means.

**LEG. ROMAINE:**

I think that there could be better financial forecasting. Without being critical of Budget Review, I think they could make an estimate of better financial forecasting by contacting the IT Department figuring out how much electronic waste becomes available every year and do rough estimates on cost and expense.

**LEG. MONTANO:**

I agree.

**MS. GAZES:**

Just for point of information, it's not just IT that is disposing of these, the departments can dispose of things through the County methods, through the Standard Operating Procedure, and they don't have to go through IT.

**LEG. ROMAINE:**

I know they don't have to go through IT, but IT would have an inventory of all of these. And if you worked with Purchasing •• you have to alert Purchasing if you decommission any piece of County equipment and file with Purchasing that decommissioning report. So they would know by simply checking their records over the last six months how many electronic implements were decommissioned, because everything over a certain value in this County gets a code number on it. And you just can't throw it out just because it breaks down, you've got to file a report.

**MS. GAZES:**

You are correct, that is the procedure. I think there was a discussion in this vain two committee meetings previous, I believe, where this similar discussion took place. And there was a clause in the resolution itself, which unfortunately made everybody very gray, because it used the term, I believe it was, if practicable. And I don't know if the resolution has been changed, but that made it very gray as to who determines that, is it a financial determination, is it a logistic determination, what makes it practicable to, you know, institute a program like this.

**LEG. ROMAINE:**

See, you just gave an excellent piece of information, because what you pointed out was a flaw in the legislation. The legislation, by saying if practicable, without determining who makes that determination leaves the door wide open, so if I'm a department head, which I was for a number of years, and I tossed something out and I file it with Purchasing, if someone questions, "Well, I determined it was practicable to do that." So

in essence, this legislation has no affect whatsoever. It doesn't seem that way on its face.

**MS. GAZES:**

I can't make a legal determination, but I remember that there was a discussion about those words. I am not aware that there is an amended copy or if there needs to be an amended copy.

**LEG. ROMAINE:**

Well, my recommendation, mr. Chairman, is that we table this and we ask the sponsor of the legislation to be more specific as it relates to that clause.

**LEG. KENNEDY:**

I'll withdraw my seconding, Mr. Chair.

**CHAIRMAN SCHNEIDERMAN:**

Right. There was a motion and a second to table. So I think I made the motion and it was seconded by Legislator Kennedy. Let's call the tabling motion. All those in favor? Opposed? All right. We have Legislator D'Amaro and Legislator Horsley opposed to tabling. Abstentions? All right. So the tabling motion is carried. **TABLED (VOTE:5•2•0•0 • Opposed, Legis. D'Amaro and Horsley)**

**1645, (A Local Law to reduce the emission of pollutants from diesel•fueled motor vehicles operated by or on behalf of Suffolk County).**

We haven't had the public hearing on this, right? So motion to table, seconded by Legislator Horsley. All in favor? Opposed?  
**Tabled (VOTE:7•0•0•0).**

**1732, (A Local Law to update the County vehicle standard and to promote the use of alternative fuels).**

I guess this has to have public hearing •• oh, the public hearing is closed.

**LEG. ROMAINE:**

Legislator Losquadro is here, the sponsor of this, and I know he wants to say a few words.

**CHAIRMAN SCHNEIDERMAN:**

Well, let's have a motion at least and a second. I'll make a motion to approve, a second by Legislator Kennedy. At this point, I will recognize Legislator Losquadro.

**LEG. LOSQUADRO:**

Thank you. I appreciate being recognized, not being a member of this committee. I don't know if any discussion was had on this resolution yet. I had a discussion with the representatives from Public Works prior to the start of this committee meeting. And I know that they had expressed a concern on the language in section three, paragraph F that they felt that the language as it read meant that the vehicle had to comply with those minimum gas mileage ratings of 20 miles per gallon city, 30 miles per gallon highway, not only for operation on gasoline, but also for operation on E85 ethanol, and that is not the case. In fact, where it says a minimum gas mileage rating, that's really • and I wanted to ask Counsel, that's sort of a Scribenor's error. That should read gasoline mileage.

In the definitions, E85 is clearly defines as an 85% ethanol blend. And gasoline, of course, being normal petroleum fuel. So really, I guess by way of clarification, a simple Scribenor's change to change gas in its abbreviated form to the full terminology of gasoline would clear up any potential confusion that might exist there.

For those of you who don't know much about ethanol vehicles, when a vehicles does run on E85 ethanol, it does achieve a lower mileage per gallon. Ethanol burns hotter, but consequently the vehicle gets less miles per gallon. This is something that countries such as Brazil, who have moved almost entirely to an ethanol•based economy for their vehicles have dealt with. And the lower cost of ethanol production in those countries has offset the lower gas mileage ratings.

So in this case, I am just seeking to put a standard in place. And I'm sure many of you have heard the discussions that we've had over the course •• even for those of you who just came in January, the discussions that we've had regarding the County



vehicle standard. And I've had discussions with the Presiding Officer, who is unfortunately in a meeting that I was just in and had to leave, we have had discussions about putting a minimum standard in place, something which does not exist even under the so-called SUV Law, which supposedly creates a County vehicle standard within that is not defined in minimum mileage per gallon rating.

And what I seek to do with this is not only create a minimum mileage per gallon rating that County purchased vehicles would have to attain, but also because of the improvement in engine vehicle management systems and their ability to optimize the engine for both operation on petroleum fuel and E85 ethanol, you are now able to purchase a vehicle that would get very good gas mileage on gasoline, yet still in the future, if •• because of the many initiatives that have been put forward in the State of New York trying to promote use of E85 ethanol, if that becomes more commercially viable in the future, and the supplies become available for us to begin purchasing that and lowering our emissions of our County fleet, well, then we have vehicles in place that can already operate on that fuel with no change and no additional cost to us. At the moment, it is not my intention to see these vehicles operate on E85 ethanol ••

**CHAIRMAN SCHNEIDERMAN:**

I think you have made your case, and it is getting late.

**LEG. ROMAINE:**

Motion to approve.

**LEG. LOSQUADRO:**

I just wanted to make the point. I know we already had a motion and a second, but ••

**CHAIRMAN SCHNEIDERMAN:**

If there are no objections from the Commissioner on this •• are there?

**COMMISSIONER BARTHA:**

I would simply point out •• I appreciate the clarifications by Legislator Losquadro, that addresses our major concerns. There are •• the only remaining concern is there are few vehicles that actually meet both of these standards. There are vehicles that meet them. It will have the affect of reducing competition, but, you know.

**LEG. LOSQUADRO:**

Well, I would make the argument that really the two manufacturers that we are currently purchasing vehicles from for our County fleet, both General Motors and Ford both have vehicles that meet these criteria. To my knowledge, Diamler Chrysler does not at the moment, but I really don't see us currently purchasing any vehicles for our fleet •• many vehicles in our flight from the Diamler Chrysler Corporation, so I don't really see this as a diminishment in our selection. I can think of •• as I said earlier, there are three vehicle off the top of my head from two different manufacturers that would meet this criteria, and both the them fall in that mid range to compact size sedan that looking for.

**CHAIRMAN SCHNEIDERMAN:**

Just some clarification. You're not objecting to it, you just feel that it might have a cost impact, because we may pay higher prices because there's less competition. But it might spur competition, some of these other manufacturers may make these cars available in the future, so.

**COMMISSIONER BARTHA:**

Right. There's a bigger purpose here.

**LEG. LOSQUADRO:**

I would just like to clear up. There is no financial impact here, because •• I apologize, Legislator Montano, but I'll preempt your question.

**LEG. MONTANO:**

I have to leave.

**CHAIRMAN SCHNEIDERMAN:**

I'll call the vote. All in favor?

**LEG. D'AMARO:**

What's the motion, Mr. Chairman?

**CHAIRMAN SCHNEIDERMAN:**

Well, there was a motion and a second to approve.

**LEG. LOSQUADRO:**

By way of clarification, I will just say there is no financial impact, because these are vehicles that are already being purchased through other municipalities, they're on state contract. I'm not talking about a vehicle that's any different from any other vehicle you see on the road, a Chevy Impala, a Chevy Malibu, a Ford Fusion. These are normal vehicles that just happen to be able to also operate on E85 ethanol. And manufacturers are now only producing one model versus two, because it's more cost effective.

**CHAIRMAN SCHNEIDERMAN:**

Dan, I think you sold us.

**LEG. LOSQUADRO:**

Just letting you know. If it's not going to pass, I'll give you more opportunity to address it, but I believe it's going to pass.

**LEG. D'AMARO:**

On the motion quickly. Is there is a fiscal impact statement available from BRO that confirms that there's zero cost to the County on this?

**LEG. LOSQUADRO:**

The cost of buying a car.

**LEG. D'AMARO:**

Zero cost of implementing the legislation.

**CHAIRMAN SCHNEIDERMAN:**

You'll save in gasoline, that has to be considered.

**LEG. D'AMARO:**

I'm just asking.

**MR. SCHROEDER:**

The overall fiscal impact ••

**LEG. D'AMARO:**

No. No. No. That wasn't my question. My question is, is there a fiscal impact statement?

**MR. SCHROEDER:**

Yes, there is.

**LEG. D'AMARO:**

Can I see a copy of it, please? Mr. Chairman •• through the Chair, I just would like to ask the sponsor, you know, my only concern about the bill, does it somehow tie the hands of the County and compel the County into buying a concern kind of vehicle here and now at a higher cost? What •• maybe you spoke to that. I apologize if I didn't hear what you said.

**LEG. LOSQUADRO:**

No. Right now, you have to understand that there is more to fleet management than simply the purchase of the car. We've discussed this, and I happen to have a background in it. There are issues of durability, service ability standardization of parts. All these things come into play. So when you look at which car you are going to purchase, we have been purchasing a Ford Taurus as our standard sedan for quite some time even though outmoded, outdated, obsolete technology vehicle that for the past couple of years has only been sold to the fleet market. But because of the cost society with switching vehicles over, we haven't yet.

This is the last year of production for the Taurus, even for fleet

purchase. So we're going to have to switch vehicles whether we like it or not. And the models that I'm discussing are the logical choices anyway that we would switch over to. I just want to codify in this in law to make sure that whatever vehicle we do select has these minimum standards. And going from a Ford Taurus to any one of these vehicles with this standard is going to save us a considerable amount of money, because the gas mileage rating is so much higher than where we are right now.

**CHAIRMAN SCHNEIDERMAN:**

If I can try once again to call the vote. We've had a motion to approve and a second. Legislator Losquadro, your three minutes are up. All those in favor? Opposed?

**LEG. D'AMARO:**

What was the motion?

**CHAIRMAN SCHNEIDERMAN:**

The motion is to approve.

**LEG. D'AMARO:**

The motion is to approve?

**CHAIRMAN SCHNEIDERMAN:**

All in favor?

**LEG. MONTANO:**

On the motion. I have the impact statement. The last sentence says that the fiscal impact is indeterminate at this time. That's where we are at. We don't know what the fiscal impact is, right?

**CHAIRMAN SCHNEIDERMAN:**

It could actually be a savings to the County. The sponsor believes it will be. All right. All in favor?

**LEG. D'AMARO:**

But, Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

On the motion.

**LEG. D'AMARO:**

Just one minute.



**CHAIRMAN SCHNEIDERMAN:**

Does it have posy•traction? My Cousin Vinny.

**LEG. D'AMARO:**

Mr. Chairman, I support the concept, but, you know, ethanol is as expensive, I believe, as gasoline. So I'm not sure where this is going. And didn't we just table another resolution because we didn't know what the fiscal impact was? Now we have a piece of paper telling us it's indeterminate, and we're guessing. I mean, that's not •• I want to support the bill, I want to support the concept, but I want to know, especially from our Department of Public Works, that, you know, we're not •• although having the right goal of saving fuel and for the environment, I want to make sure that we're not doing the exact opposite by tying the hands of DPW to buy vehicles that may be more expensive.

**CHAIRMAN SCHNEIDERMAN:**

You want to reconsider to table 1545?

**LEG. D'AMARO:**

Well, we'll be back in two weeks, Mr. Chairman, as you stated.

**LEG. LOSQUADRO:**

Legislator D'Amaro, I'd be happy to •• I apologize for keeping people here, but I'll be happy to explain that to you.

**LEG. D'AMARO:**

Yeah, I'd appreciate it. Sure.

**LEG. LOSQUADRO:**

As I said, car manufacturers now, because of global market for these vehicles, especially in countries such as Brazil, vehicle manufacturers have found that it is no longer cost effective to run two manufacturing lines. You run one manufacturing line, you create one car. That car can run on gasoline or ethanol. It's no longer cost effective to tool up to create two different cars. So if you're buying this car, it can run on gas or ethanol by its very nature, because the manufacturers have found it's no longer worth it to produce two different models.

So you're going to be buying this model anyway. Putting the ethanol standard in there, I said is just sort of looking at the future. It doesn't impact the fact that the real point of this right now in the immediate future is putting a minimum gas mileage standard on out vehicles that is substantially higher than what we have right now. So I know it says it's indeterminate, that's because you haven't purchased the cars yet. Once you purchase the car that gets better gas mileage than the one your currently purchasing, you're saving money.

**LEG. D'AMARO:**

We haven't recycled e•waste through an RFP yet either. I mean, I'm just trying to make the point here. I agree higher gas mileage •• through the Chair, if I may •• higher gas mileage is a goal we should achieve. I agree that we should be looking

at alternative sources of fuel, but I disagree in guessing at the financial impact of implementing this bill.

**LEG. LOSQUADRO:**

It's not a guess. The vehicles haven't been ••

**LEG. D'AMARO:**

But even the BRO is telling us it's indeterminate. How could it be other than a guess?

**LEG. LOSQUADRO:**

I'll tell you how, because vehicles don't get turned over at a set date. As they accrue mileage, you retire one, then you buy a new one. As that vehicle gets retired, you replace it with a new car that gets better gas mileage. It goes up incrementally. You could have a month where you replace several, you could have a month where you replace none. It's really •• you really can't put a specific dollar figure on it, because you don't know when those vehicles are going to be replaced.

**LEG. D'AMARO:**

I'm not sure •• you know, we operate on ••

**CHAIRMAN SCHNEIDERMAN:**

I don't want to go on and on and on.

**LEG. D'AMARO:**

I don't want to either, but this is an important point. We operate with projections all the time, the County has a history of what its bought it in the past, and certainly BRO knows vehicles would fall within this legislation if it passes. There's a legitimate comparison that can be made and can be stated in a fiscal impact statement. You're asking me to vote today on a bill that is going to have a fiscal impact, which can be determined or projected and which I am not being told. I agree with every other concept in your bill ••

**LEG. LOSQUADRO:**

I apologize, Legislator D'Amaro, and I don't mean to be disrespectful here, but you don't understand the process. These are vehicles that are going to be purchased anyway. Quite frankly, the vehicles that will fall into this category are the most likely candidates of vehicles that we would be purchasing anyway. So it really is •• until the vehicles are purchased, you cannot put a dollar figure on it. And the vehicles, as I said •• when the Commissioner brought it up, he said, oh, well, it might restrict the manufacturers.

And as I said quite clearly, these are the manufacturers we're already purchasing from. And the standard model that we're purchasing right now, is being discontinued at the end of this year and was discontinued for retail sale a couple of years ago. So we're going to be buying new vehicles whether we like it or not, a different vehicle from what we have right now. And the vehicles that will meet this criteria are the candidates that are already on state contract, are already being purchased by other

municipalities, by the state. Whether or not we chose Ford or General Motors is really irrelevant, because these vehicles are all being purchased for fleet use in other municipalities.

**LEG. D'AMARO:**

Well, I apologize if I don't understand. Mr. Chair, I just want to ask BRO, is it •• is the financial impact indeterminate, because the only way can come up with a financial impact or a projection of that impact is to actually implement the legislation and go through this process? I guess stated another way, is BRO not comfortable or willing to take a statement of financial impact based on projections rather than what turns out to be in hindsight the reality of the purchases.

**MR. SCHROEDER:**

The resolution intends to accomplish two things. It intends that as in the fiscal impact statement, that the County establish and maintain a minimum fuel economy standard for fleet vehicles, that's one aspect relating to the purchase of the vehicles. The second inference here or stated objective of the resolution was to establish •• pursue E85 ethanol as an alternative •• the alternative motor vehicle fuel of choice for the County fleet. So ••

**LEG. LOSQUADRO:**

If I can just clarify that. It says that vehicles must be also able to operate on E85 ethanol. So you are establishing that minimum standard of 20 and 30, which we don't have right now. Right now, there is no minimum standard, and it's just that, it's a minimum. If we can find vehicles that exceed this by 10%, 20%, 40%, great. I want to see a minimum standard in

place that anyone working in the Department of Public Works now or in the future will have to adhere to when looking at which vehicles they're going to purchase for County use, that's all. I don't want to make it sound more complex than it is. There are some complexities with the technicalities of it, but it's to establish a minimum standard for fuel economy and that these vehicles be able to operate on alternative fuel. That's it.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Kennedy, if you must.

**LEG. KENNEDY:**

Very, very, very quickly. As a matter of fact, I'll direct it through, Mr. Chair, either to the sponsor and/or BRO. Do vehicles like this exist on a state bid list right now? Does OGS have a price for a sedan, a pickup or whatever?

**LEG. LOSQUADRO:**

Well, pickups are excluded. This is for the County sedans. And if you read the legislation ••

**CHAIRMAN SCHNEIDERMAN:**

The answer is yes.

**LEG. LOSQUADRO:**

- I specifically excluded heavy vehicles, because no heavy vehicles could comply with this. So, yes, these vehicles are on the state bid list.

**LEG. KENNEDY:**

So right now, as a matter of fact, as department can, they always have the opportunity and go ahead an access state bid list, make acquisition and go ahead and go the transaction?

**LEG. LOSQUADRO:**

Correct.

**LEG. KENNEDY:**

And it's for a finite fixed price?

**LEG. LOSQUADRO:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

If the committee will allow, I'd like to call the vote. We had a motion, we had a second. Motion to approve. All those in favor? Opposed?

**LEG. MONTANO:**

Abstention.

**CHAIRMAN SCHNEIDERMAN:**

One abstention. **APPROVED (VOTE:6•0•1•0 • Abstention, Legis. Montano)**

**1736, (Approving extension of license for Sayville Ferry Service, Inc., for cross bay service between Sayville, New York, and the Fire Island Communities of Fire Island Pines, Cherry Grove, Water Island and Sailors Haven).**

We need a public hearing, so I'll make a motion to table, seconded by Legislator Horsley. All those in favor? Opposed? Abstentions? **Tabled (VOTE:6•0•0•1 • Not present, Legis. Montano).**

**1753, (Authorization of alteration of rates for North Ferry Co., Inc.).**

**LEG. ROMAINE:**

Motion to table.

**CHAIRMAN SCHNEIDERMAN:**



That requires a public hearing. Motion to table by Legislator Romaine, seconded by myself. All those in favor? Opposed?

**LEG. D'AMARO:**

Hold on. Just on the motion. I would just ask a •• the reason that we're tabling this.

**CHAIRMAN SCHNEIDERMAN:**

It requires the public hearing.

**LEG. ROMAINE:**

It requires a public hearing next Tuesday. I'm having the hearing on the island on Monday at Shelter Island at night.

**CHAIRMAN SCHNEIDERMAN:**

**TABLED (VOTE:6•0•0•1 • Not present, Legis. Montano)**

**1794, (A Local Law to modify exemption on purchase of sports utility vehicles (SUV) by Suffolk County).**

This had a public hearing, which closed.

**LEG. ROMAINE:**

Motion. I believe this is for the District Attorney's Office.

**CHAIRMAN SCHNEIDERMAN:**

Motion to approve by Legislator Romaine.

**LEG. D'AMARO:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator D'Amaro. All in favor? Opposed?  
Abstentions? **Approved. (VOTE:6•0•0•1 • Not present,  
Legis. Montano)**

**1808, (To take emergency measures to mitigate traffic  
congestion on County Road 39 in the Town of  
Southampton).**

**CHAIRMAN SCHNEIDERMAN:**

Very briefly, if you haven't been following on TV and in the

newspapers, what happened with this, this bill was submitted, the County Executive agreed to give a one week trial period thanks to the efforts of DPW, who did actually a remarkable job in preparing plans and actually establishing the cones, and the Town of Southampton who provided a tremendous level of police service and the Village of Southampton, the Sheriff's Office provided police personnel, the State Troopers provided personnel.

We had a very, very successful week, better than anyone dreamed of. I had a flood of calls to my office, people telling me it cut an hour off their daily commute. It was so successful, we were able to get it continued to the end of the summer. The funding •• DPW is being funded through the County, and then the towns are providing the police service. There was a grant made available through the state of \$100,000 to the Town of Southampton to help keep it going. So we believe it's going to be up and running through the Labor Day or the week after Labor Day.

I'd like to just publically thank the Commissioner and Bill Hillman and the other people in DPW, Lorraine Hickey, who did an extraordinary job on the signage. I know I'm leaving people out •• if you do want mention some of the other people involved. But it's been an extraordinary success. And you will be hearing more about, because we are immediately going to start next year and coming up with a plan for next year.

It's really helping in the morning commute. We have a real problem with County Road 39 as the Commissioner said and noted. Commissioner, did you want to say anything?

**COMMISSIONER BARTHA:**

Yes. The Southampton Police have been a pleasure to work as they have been in the past. Lorraine Hickey in particular has been out there every morning at five o'clock in order to make sure everything goes smoothly along with our crews.

I do want to emphasize that while it's only costing us approximately \$7000 a week in overtime, it is impacting other work that we would otherwise be performing. So in a long term consideration of this, that's a concern, as well as the fact that there may be consideration given in the future to year•round. Starting early in the morning is becoming a problem with darkness, and it becomes a dangerous situation working out there, which we cannot allow for our people.

**LEG. ROMAINE:**

Perhaps it's time to fill some vacancies.

**LEG. D'AMARO:**

What's the cost?

**CHAIRMAN SCHNEIDERMAN:**

Because of the late hour, I will spare further discussion. So there's no need to act on it. I'll just make a motion to table it for now.

**LEG. D'AMARO:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? 1808 is **TABLED (VOTE:6•0•0•1 • Not present, Legis. Montano).**

**1854, (A Local Law to increase connection fees for sewer district contractees located outside the geographic boundary of a sewer district).**

This does require a public hearing. I make a motion to table, seconded by Legislator Romaine. All those in favor? Opposed? Abstentions? **TABLED (VOTE:6•0•0•1 • Not present, Legis. Montano).**

**1855, (Amending the 2006 Capital Budget and Program and appropriating funds in connection with traffic signal improvements at CR 48 and Westphalia Avenue, Town of Southold (CP 5054).**

**LEG. ROMAINE:**

Motion.

**CHAIRMAN SCHNEIDERMAN:**

There's a motion by Legislator Romaine, seconded by Legislator Kennedy.

**LEG. D'AMARO:**

On the motion.

**CHAIRMAN SCHNEIDERMAN:**

On the motion, Legislator D'Amaro.

**LEG. D'AMARO:**

I just want to note for the record that I support this bill especially in light of the fact that Legislator Romaine supported my traffic light. So I appreciate that.

**LEG. ROMAINE:**

The County Exec is also supporting this.

**CHAIRMAN SCHNEIDERMAN:**

Duly noted.

**LEG. ROMAINE:**

And DPW is as well. Keep that money coming.

**LEG. D'AMARO:**

Just for the record, Mr. Chairman, even without the County Executive and DPW, I would vote yes on this bill.

**CHAIRMAN SCHNEIDERMAN:**

All right. We had a motion and a second. All in favor?  
Opposed? Abstentions? 1855 is **approved (VOTE:6•0•0•1 •**  
**Not present, Legis. Montano).**

**1857, (Amending the 2006 Capital Budget and Program  
and appropriating funds in connection with the  
uninterruptable power supply replacement, Building 50  
(CP 1775).**

I'll make a motion.

**LEG. BROWNING:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator Browning.

**LEG. KENNEDY:**

On the motion, Mr. Chair. Just a quick question, I guess, for Counsel. What is the cost associated with this project?

**COMMISSIONER BARTHA:**

\$280,000.

**LEG. KENNEDY:**

280,000. And is this being offset, or what's the funding source?

**MS. GAZES:**

This is funding that was included in the 2006 Capital Budget. The amending part is •• refers to the change in the source of funding from pay•as•you•go to serial bonds, otherwise it's as adopted in the 2006 Capital Budget.

**LEG. KENNEDY:**

The UPS I'm very familiar with, but we're bonding this now rather than paying for it out of pocket.



**MS. GAZES:**

That's correct.

**LEG. KENNEDY:**

Okay.

**CHAIRMAN SCHNEIDERMAN:**

There was a motion and a second, correct? All in favor? Opposed? Abstentions? **Approved (VOTE:6•0•0•1 • Not present, Legis. Montano).**

**1880, (To require the percentage of recycled paper used to be indicated on all publications of the County of Suffolk).**

**CHAIRMAN SCHNEIDERMAN:**

The sponsor is no longer here to explain the bill. You know what? I'll make a motion to table.

**LEG. D'AMARO:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **Tabled (VOTE:6•0•0•1 • Not present, Legis. Montano).**

Before we adjourn, Commissioner Bartha.

**COMMISSIONER BARTHA:**

I would just like to introduce the new Chief Deputy Commissioner, Gilbert Anderson, who joined Public Works July 20th. You'll be getting to know Gil Anderson a lot more.

**CHAIRMAN SCHNEIDERMAN:**

You still want this job after this meeting.

**MR. ANDERSON:**

Absolutely.

**COMMISSIONER BARTHA:**

And also someone you know that I'm very happy to •• Lou Calderone will be appointed Deputy Commissioner, one of my last acts will be appointing him Deputy Commissioner effective when Leslie Mitchel and myself leave.

**CHAIRMAN SCHNEIDERMAN:**

Congratulations, Lou.

**LEG. D'AMARO:**

Good luck, guys.

**LEG. HORSLEY:**

Good luck.

**CHAIRMAN SCHNEIDERMAN:**

I'll make a motion to adjourn, seconded by Legislator Horsley.  
We're adjourned. Thank you.

**(\* THE MEETING WAS ADJOURNED AT 4:20 P.M. \*)**

**{     }     DENOTES BEING SPELLED PHONETICALLY**